

Hain, Mary - July 02, 2002 00:00:00 a.m. Volume: I

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1:1 UNITED STATES OF AMERICA  
2 BEFORE THE  
3 COMMODITY FUTURES TRADING COMMISSION  
4 -----x  
5 IN THE MATTER OF: : Commission Docket Number  
6 ENRON CORPORATION : PA-02-02  
7 -----x  
8 INVESTIGATIVE TESTIMONY OF MARY C. HAIN  
9 Washington, D.C.  
10 Tuesday, July 2, 2002  
11 REPORTED BY:  
12 SHEILA LYONS  
13 Statement of MARY C. HAIN pursuant to subpoena, on  
14 Tuesday, July 2, 2002, in Washington, D.C., at the Federal  
15 Energy Regulatory Commission, 888 First Street NE, Hearing  
16 Room 3, at 10:00 a.m., before SHEILA LYONS, a Notary  
17 Public within and for the District of Columbia, when were  
18 present on behalf of the respective parties:  
19 JOSEPH ROSENBERG, ESQ.  
20 Commodity Futures Trading Commission  
21 Division of Enforcement  
22 140 Broadway  
23 New York, New York 10005  
24 646-746-9763  
25 KIM G. BRUNO, ESQ.

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2:1 Federal Energy Regulatory Commission  
2 Office of the General Counsel  
3 Enforcement Section  
4 888 First Street NE, Room 92-40  
5 Washington, DC 20426  
6 202-208-1033

7 --continued--

8 APPEARANCES (CONTINUED):

9 WILLIAM COLLINS, ESQ.  
10 Federal Energy Regulatory Commission  
11 Office of the General Counsel  
12 888 First Street NE  
13 Washington, DC 20426  
14 KEVIN S. REED, ESQ.  
15 Quinn, Emmanuel, Urquhart, Oliver & Hedges LLP  
16 805 Third Avenue, 11th Floor  
17 New York, New York 10022

18 P R O C E E D I N G S

19 Whereupon,

20 MARY C. HAIN  
21 was called as a witness and, having first been duly sworn,  
22 was examined and testified as follows:

23 (Hain Exhibits 1, 2, and 3 identified.)

24 EXAMINATION

25 BY MR. ROSENBERG:

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3:1 Q Let the record reflect the witness is sworn.  
2 Ms. Hain, could you please spell your first name for the  
3 record.

4 A Mary C. Hain, M-a-r-y, Catherine,  
5 C-a-t-h-e-r-i-n-e, H-a-i-n.

6 Q My name is Joseph Rosenberg. Possibly later  
7 Stephen Obie and Gregory Mocek from my office will be  
8 appearing. They are all officers of the Commodity Futures  
9 Trading Commission for the purpose of this proceeding.  
10 Also here are members of the FERC staff, who will identify  
11 themselves in a minute and they will be asking questions  
12 as well here today.

13 The following are some general instructions  
14 that will be applicable throughout your deposition. If at  
15 some point you don't hear the question I ask, please let  
16 me know. If at some point you don't understand a question  
17 I ask or that anyone else asks for that matter please let  
18 us know. We will attempt to rephrase and make it  
19 understandable. Please answer audibly as opposed to  
20 gestures so the reporter can get these down.

21 This is an investigation by the United States  
22 Commodity Futures Trading Commission in the matter of  
23 Enron Corporation to determine whether there have been  
24 violations of certain provisions of the Commodity Exchange  
25 Act and regulations. However, the facts developed in this

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4:1 investigation might constitute violations of other  
2 federal, state or criminal laws.

3       Prior to opening the record you were provided  
4 with a copy of the format order of investigation in this  
5 matter. It will be available for your examination  
6 throughout the course of your testimony. Prior to opening  
7 the record, you were also provided with a copy of the  
8 statement directed to provide information pursuant to a  
9 Commission subpoena or requested to provide information  
10 voluntarily.

11       Counsel has had an opportunity to review the  
12 statement?

13       MR. REED: Yes, we have.

14       BY MR. ROSENBERG:

15       Q   That statement to persons is marked as Hain  
16 Exhibit 1. I will now show you what has been marked  
17 Exhibit 1.

18       A   Okay.

19       Q   I'm now going to show you -- well, now that you  
20 have had an opportunity to read Exhibit 1, do you have any  
21 questions concerning this exhibit?

22       A   No.

23       Q   Ms. Hain, you are represented by counsel today;  
24 is that correct?

25       A   That's correct.

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5:1 MR. ROSENBERG: Would counsel please identify  
2 yourself.

3 MR. REED: Kevin Reed from the firm of Quinn  
4 Emanuel Urquhart Oliver & Hedges.

5 MR. ROSENBERG: Mr. Reed, you are appearing as  
6 Ms. Hain's counsel today; is that correct?

7 MR. REED: That is correct.

8 BY MR. ROSENBERG:

9 Q I'm now going to show you what has been marked  
10 Hain Exhibit 2, which is a copy of the subpoena from the  
11 Commodity Futures Trading Commission. At the same time, I  
12 will show you a copy of Exhibit 3, which is a subpoena  
13 from FERC. Are these the two subpoenas that you are  
14 appearing here pursuant to?

15 A Yes.

16 Q Would you tell us, what is your date of and  
17 place of birth?

18 A March 8, 1959. I was born in Lockport, New  
19 York.

20 Q And your current residential address?

21 A 1431 Carroll, C-a-r-r-o-l-l, Brown Way, West  
22 Chester, Pennsylvania 19382.

23 Q And your employment address?

24 A I work for PJM Interconnection, LLC, 955  
25 Jefferson Avenue, Norristown, Pennsylvania 19403.

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6:1 Q Briefly could you just please run through your  
2 educational background?

3 A I have a juris doctorate from Franklin Pierce  
4 Law Center. What else?

5 Q Undergraduate?

6 A Undergraduate, I went to State University of  
7 New York at Potsdam.

8 Q Do you have any professional licenses other  
9 than as attorney?

10 A No.

11 Q Where do you hold professional licenses?

12 A I'm licensed to practice in New Hampshire,  
13 Oregon and Washington, D.C. I'm inactive in New  
14 Hampshire.

15 Q Have you ever been subject to public discipline  
16 in any jurisdiction in which were admitted to?

17 A No.

18 Q Have you ever given testimony in a legal or  
19 legislative proceeding regarding your work at Enron?

20 A No.

21 Q Have you ever been subpoenaed in a legal or  
22 legislative proceeding regarding your work at Enron?

23 A No.

24 Q Would you tell us just professionally what  
25 positions you have held since you finished law school?

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7:1 A I worked as a staff attorney/hearing examiner  
2 at the New Hampshire Public Utilities Commission, from  
3 1995 to -- I'm sorry, not 1995. 1985. I'm trying to  
4 reconstruct history here. 1985 until 1991, or was it  
5 1990. And then I worked a year in private practice in  
6 Boston at a firm's name that has just gone completely out  
7 of my head right now I'm so nervous.

8 And then I worked for FERC for five years,  
9 first in gas and oil advisory and then gas and oil  
10 litigation and finally in electric litigation. I went  
11 from there in 1996 to Portland General Electric which had  
12 just announced its merger with Enron. I worked for, as I  
13 guess it was called deputy general counsel at Portland  
14 General Electric for a year and a half, and then I became  
15 a director of federal regulatory affairs at Enron, after a  
16 year and a half at Portland General. And I left Enron  
17 Corporation in April of 2001.

18 Q Where did you go?

19 A I went to -- it's ISO New England, and they  
20 operate the transmission grid in New England. And I left  
21 there in the end of October of 2001 to work for PJM, LLC.

22 Q Briefly what were the circumstances that you  
23 left the ISO New England?

24 A When I went to ISO New England they said they  
25 had at least three years' work for me to do. And I found

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8:1 after I had worked there for six weeks that their contract  
2 to run the transmission system ran out this summer. And  
3 so I didn't think they had three years worth of work for  
4 me to do. Then the Commission issued an order rejecting  
5 their filing and I started looking for another job.

6 Q Is there any litigation arising out of that?

7 A There was. They sued me for relocation  
8 expenses and we are in the process of settling that case.  
9 We have a settlement in principle and also they threatened  
10 to sue me for conflict of interest. We settled that  
11 before they sued me.

12 Q Okay. Turning to your duties at Enron and  
13 Portland General immediately preceding that. Could you  
14 tell us the progression of your responsibilities from the  
15 time you got there to the time you left?

16 A At Enron Corporation?

17 Q Well, and at Portland General.

18 A Portland General, Portland General I worked on,  
19 I believe, almost every FERC filing that they did. It was  
20 primarily my duties for them. I worked on I think one,  
21 two state PUC matters. One on marginal cost case and the  
22 other one was a QF case, qualifying facility.

23 Q With respect to acronyms, probably myself and  
24 the reporter and maybe Mr. Reed are the only ones who  
25 don't know these. If you could just explain them. Maybe

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9:1 Mr. Reed does.

2 A A qualifying facility is an entity that  
3 qualifies for special treatment by the FERC. It's  
4 actually not by FERC, it's really under federal law,  
5 whereby they can demand a contract with the utility to  
6 sell their power to them.

7 Q PUC stands for public utility?

8 A Public Utilities Commission.

9 Q Was that the scope of your duties at Portland  
10 General?

11 A Yes.

12 Q Then how did that change when you got to Enron,  
13 if it changed?

14 A I had a completely different job at Enron. I  
15 moved across the street, sat on the trading floor, I  
16 wasn't in the legal department anymore. I was in the --  
17 it was government affairs at first and then ultimately it  
18 became -- actually, it was regulatory affairs at first and  
19 then ultimately it became government affairs, when Enron  
20 Energy Services joined us.

21 We went from being a relatively small  
22 organization of about 12 people to about, I don't know,  
23 150 people in government affairs, and I had about four  
24 different supervisors in my time there. I reported at  
25 first to Joe Hartsoe, H-a-r-t-s-o-e. He was my first

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10:1 supervisor. Then I reported to Joe Hartsoe and Jim  
2 Steffes, S-t-e-f-f-e-s. The two of them jointly at that  
3 time. Then I reported to Paul Kaufman, that is  
4 K-a-u-f-m-a-n, and then I reported to Jim Steffes again.

5 Q Were these attorneys?

6 A Joe and Paul were attorneys. Jim was not.  
7 Anyway, my duties for Enron were to represent them before  
8 the FERC, primarily on files to either protest files that  
9 had been made or to file complaints against companies that  
10 were discriminating against Enron or not providing it just  
11 and reasonable service.

12 Q And that was done out of the trading floor?

13 A Yes, I sat on the trading floor.

14 Q What was the reason that you sat on the trading  
15 floor for the type of work that you just described?

16 A Well, when I first moved there I didn't sit on  
17 the trading floor, I had my own office. It was -- my  
18 supervisor thought that if I sat out on the trading floor  
19 I would better understand the trader's concerns. I would  
20 better understand who was hurting them and who they needed  
21 to go to FERC for help with.

22 MR. BRUNO: That is Mr. Hartsoe that suggested  
23 that.

24 THE WITNESS: Yes, and that I would understand  
25 the business better.

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11:1 BY MR. ROSENBERG:

2 Q Approximately how much time did you spend on  
3 the trading floor from the time that change was made?

4 A I was trying to remember that and I can't  
5 remember precisely, but I think that I actually had two of  
6 my own offices. And at one point while Paul Kaufman was  
7 my supervisor I still had my own office, and then I moved  
8 out to the trading floor. At first I sat next to the  
9 fundamentals group and I think maybe in the summer of 2001  
10 I moved over behind the realtime desk. Sat behind the  
11 head of the realtime desk.

12 MR. BRUNO: Ms. Hain, do you trust your art  
13 abilities here? If you could, just draw --

14 THE WITNESS: This is really going to be  
15 humorous.

16 BY MR. BRUNO:

17 Q If you wouldn't mind, just try to diagram what  
18 you just described in terms of the trade floor at Portland  
19 and where you sat.

20 A Okay.

21 MR. REED: With the understanding this will be  
22 rough.

23 MR. BRUNO: It is a schematic and we are not  
24 testing your artistic skills.

25 THE WITNESS: An artist's conception.

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12:1 MR. BRUNO: Exactly.

2 THE WITNESS: This, for lack of a better term,  
3 is called the cave.

4 BY MR. BRUNO:

5 Q What was the cave?

6 A It was a room that didn't have any windows. It  
7 had glass doors.

8 MR. REED: For the record you are writing  
9 "cave."

10 THE WITNESS: I'm writing "cave" on the  
11 diagram. This is the entry hall here. There were some  
12 desks over here. Ultimately. There were some changes  
13 that were made in the trading floor over time. I'm sort  
14 of drawing this like the ultimate layout of the trading  
15 floor. I haven't put a little area over here. This was  
16 the kitchen here and at first this was my office. My  
17 first office. And there were desks here and desks back or  
18 cubicles back in here. Actually these were ultimately  
19 made into offices back here. This is where the attorneys  
20 sat.

21 BY MR. BRUNO:

22 Q Was that Mr. Yoder?

23 A Yes, Christian and also the attorneys that  
24 supported the originators. And then they built some  
25 offices back here in back. There is a conference room and

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13:1 then my second office. And this is Paul's office. And  
2 there was a conference room here. And then ultimately  
3 there were some desks out here and there were desks here.  
4 There were a lot more desks than I have drawn, but the  
5 realtime desk was --

6 Q Can you mark "realtime" there?

7 A Sure. I will just mark RT.

8 Q That's great.

9 A Realtime desk was my seat right here behind the  
10 traders.

11 BY MR. ROSENBERG:

12 Q What was the fundamentals group?

13 A The fundamentals group was over here. I will  
14 put "fundies." I sat over here right next to the window.  
15 So this was, let's see, that was second. This is third.

16 BY MR. BRUNO:

17 Q So the third you are indicating on there was  
18 the third location?

19 A Right. And then there is the fourth dot or the  
20 dot with the fourth is my fourth seat. And so this is the  
21 realtime desk and this was the scheduler sat here and the  
22 traders sat here. All sort of in this area where I'm  
23 indicating with arrows. And the realtime desk was this  
24 row here over to the schedulers. And there were some,  
25 there were people, I mean they were sitting on both sides

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14:1 of these lines. And this was originators over in this  
2 area. And then, I will write "orig," and then there were  
3 a number of other people in these areas.

4 Ultimately there were, there is a financial  
5 risk person, where I'm putting "risk," and there were the  
6 mid-market traders who kind of sat in this area where I'm  
7 writing "mid" along this desk and along this next row.

8 BY MR. ROSENBERG:

9 Q Okay. Why don't you title this rough schematic  
10 of the floor, "trade floor." And put your initials and  
11 date. We appreciate that this is coming from memory and  
12 is not intended as an architectural filing.

13 A Unfortunately, as you can tell from my notes  
14 I'm kind of messy and I'm not an artist. So today's date  
15 is the 2nd.

16 MR. REED: Can I request a copy separate from  
17 the transcript or do you want to make it part of the  
18 transcript?

19 BY MR. BRUNO:

20 Q Let me do this. I could make a copy before.  
21 Then we will mark it and identify it. Where did  
22 Mr. Beldon sit?

23 A He sat about here.

24 Q Can you put like a circle or TB?

25 A It's kind of weird, because, actually I think I

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15:1 was over here, because there were, I wasn't in the same  
2 row as he was. I will put a little X through this dot.

3 And this was BT right here. In the row where it says  
4 "traders." Tim Beldon, I'm sorry. "TB." I'm sorry.

5 BY MR. ROSENBERG:

6 Q If I gave you the wrong date --

7 A Right.

8 Q Let's have a copy made of that.

9 Can you tell us the genesis of the idea that  
10 you should be on the trading floor, to better understand  
11 the operation. Whose idea was it, how did it develop?

12 A Joe Hartsoe, my boss, called me up one day and  
13 asked me why I wasn't sitting on the trading floor. And  
14 that was Joe. Joe's way of telling me to move to the  
15 trading floor.

16 He said Christi Nicolay in Houston, who did the  
17 same job -- N-i-c-o-l-a-y, who did the same job I did,  
18 does the same job, did the same job and so she sits out on  
19 the trading floor with the traders, why don't you sit out  
20 there. How come you have your own office. And that was  
21 his not-so-subtle way of telling me to move out on the  
22 trading floor.

23 Q Did he explain to you -- beyond the fact that  
24 it's done in Houston, did he explain to you what he  
25 expected you to do on the trading floor?

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16:1 A Well, yes, he said he wanted me to learn all  
2 about the business.  
3 Q What business was he referring to?  
4 A The trading business.  
5 Q What did you understand that to mean?  
6 MR. REED: The trading business to mean?  
7 BY MR. ROSENBERG:  
8 Q Yes, not his understanding, your understanding?  
9 A That he wanted me to learn how the traders  
10 traded, so that I could, in making my files with FERC,  
11 explain their problems with the market.  
12 Q Were you tasked to provide any assistance to  
13 the traders in your capacity?  
14 A I represented Enron Power Marketing before the  
15 FERC. That was my job.  
16 Q Did you give advice to the traders on the  
17 floor, if called upon?  
18 A Occasionally.  
19 Q What types of advice did you give?  
20 A Well, for quite a while I mostly gave advice  
21 about the Northwest.  
22 Q What type of advice, schedules, on what?  
23 A I mostly gave advice to them about Bonneville  
24 Power Administration. There were various proceedings  
25 going on about Bonneville Power Administration where they

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17:1 were proposing changes to their open access tariff, which  
2 wasn't consistent with the FERC's pro forma tariff.

3       And so what I did in that case was negotiate  
4 with a lot of other participants in BPA's market to try to  
5 get the tariff to be more like the pro forma tariff. So I  
6 would come back to them and say here is the problem with  
7 the tariff. And they will say well, here is what needs to  
8 be done, here is what we really need done and these are  
9 things that we would be willing to compromise on. That  
10 could be -- would be the kind of thing I would handle for  
11 them. I also worked on RTO West for them. I went to a  
12 lot of the RTO West.

13       Q   RTO?

14       A   Stands for regional transmission organization.  
15 And negotiated to try to create a more independent -- I  
16 worked on governance of the RTO, that was one of the  
17 issues that I worked on, primarily. I didn't really work  
18 on some of the other work groups that they had concerning  
19 like congestion management. I worked on a tariff  
20 committee. We didn't really do very much. Also every  
21 time an entity in the Northwest or sometimes the  
22 Southwest, but there was also people covering the  
23 Southwest, so it was mostly the Northwest, every time they  
24 made a filing at FERC, I would review it and say here  
25 are -- try to outline for the traders here are the bad

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18:1 ramifications for your business, here are the good  
2 ramifications. And if there was a basis for protesting  
3 it, I would try to talk them into protesting it.  
4       The other thing that I did which is clear from  
5 my notes is whenever the traders had a problem with  
6 another entity, they would tell me about it. They would  
7 say, and this is just related as it relates to FERC issues  
8 or what maybe they thought were FERC issues, that this  
9 entity is discriminating against us or this entity is  
10 hurting us from a FERC perspective and we want you to  
11 analyze whether or not we need to file a complaint against  
12 them.  
13       Oftentimes they didn't lead to complaints  
14 because of business relationships. You know you don't  
15 want to hurt your business relationships by complaining  
16 about your partners in business. So I would only talk  
17 them into filing one complaint while I was there and it  
18 was against Bonneville Power Administration.  
19       Q   What were some of the other potential problems?  
20       A   There's quite a bit in my notes about a problem  
21 we had at the Mid-Columbia.  
22       Q   Tell us about it.  
23       A   I'm trying to remember all of it. I looked  
24 through my notes and it's not absolutely clear, but there  
25 were a couple of aspects to it. One, Bonneville would not

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19:1 give through transmission through the Mid-Columbia trading  
2 hub. You had to buy two legs of transmission, you had to  
3 in essence get off the bus and get back on again at the  
4 Mid-Columbia and pay one of the Mid-Columbia transmission  
5 owners a fee. And most of the Mid-Columbia transmission  
6 owners were munis that weren't regulated by FERC. Or at  
7 least they didn't think that part of their business was  
8 regulated by FERC, although they may have had open access  
9 tariffs. Another thing that people did at the  
10 Mid-Columbia was they would post a -- I have to think  
11 about this for a minute. They would post to --

12 Q We are just trying to get a flavor of what you  
13 did. So you can be general if you don't recall specific  
14 details.

15 A Okay. In essence, they would require us to buy  
16 capacity service, they called it, or something of that  
17 nature, from a participant in the market in order to go  
18 forward with the transaction that they had already agreed  
19 to. They would try to add a condition to it in other  
20 words.

21 Q And what other problems that you can recall  
22 from your notes or from your memory?

23 MR. REED: Problems?

24 BY MR. ROSENBERG:

25 Q With other parties?

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20:1 A Well, the BPA was sort of a big deal. That one  
2 that we had the complaint about. That took up quite a bit  
3 of my time. There were numerous times when the traders  
4 complained about whether companies were denying them  
5 transmission service. You know, they felt like they were  
6 being denied transmission service, but they weren't sure  
7 and could I look into it to see if their affiliate or  
8 their prior marketing arm had gotten the transmission and  
9 was there any way to prove that. They also asked me to  
10 help them buy transmission service, especially long-term  
11 transmission service, and I also helped the originators  
12 buying long-term transmission service and to buy  
13 interconnection service for a couple projects.

14 Q So that was in a nonlegal support service?

15 A No, it wasn't nonlegal, it was legal. Because  
16 there is a complicated tariff process to get the service  
17 and they wanted to make sure they jumped through the  
18 proper hoops because they had been denied transmission  
19 service once for doing it wrong. They wanted make sure  
20 they had somebody who had a legal background to make sure  
21 they do it right.

22 Q So you in effect acted as both the person doing  
23 the transaction --

24 A No, I didn't. They had somebody who would  
25 actually sit at the OASIS terminal, but I understood what

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21:1 the information was on the OASIS and I read the rules for  
2 them and made sure they got the right information and  
3 entered it on OASIS.

4 Q You would make the decision on whether to go  
5 through with the transaction?

6 A No, never. That was Tim Beldon. It was way  
7 too much money involved for me to be doing that kind of  
8 thing. That is not -- that was not my job.

9 Q So your input was to advise them on?

10 A I would tell them, for example, you need to, if  
11 you want the transmission by X date, you have to get your  
12 request in by 30 days beforehand and then here is, then  
13 you will get a response back saying that they either can  
14 provide it or not and here are the elements that you need  
15 to make sure that you put in your request. You know you  
16 have to put the amount of transmission, you have to put  
17 the receipt and delivery point. You have to put how much,  
18 how many megawatts you want. You have to put those things  
19 in. That's all I did.

20 Q Did you repeat this advice with every  
21 transaction or was there --

22 A We went through it with every transaction, yes,  
23 because they were big transmission requests. And then  
24 they were long-term deals. You know, 10 years, 20 year  
25 deals.

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22:1 Q And it was ultimately --

2 A And they were important to the company.

3 Q So ultimate decisions on these deals were made  
4 by Tim Beldon?

5 A Yes.

6 Q In every case?

7 A No, sometimes they were, the transmission deals  
8 were origination desk deals so they would have been made  
9 by Chris Calger or his predecessor, I can't think of his  
10 name.

11 BY MR. BRUNO:

12 Q I understand you started working on the  
13 Northwest desk or working with the Northwest transmission  
14 agreements; is that right?

15 A And everything about, you know, the FERC files  
16 in the Northwest.

17 BY MR. BRUNO:

18 Q Did that entail working with Mr. Swerzbin, who  
19 I understand was in charge of the Northwest book?

20 A Yes. I did work with Swerzbin.

21 Q Okay. Did you work with Mr. Swerzbin with  
22 regard to purchasing transmission assets to support his  
23 book?

24 A Well, I didn't work on all of the transmission  
25 deals. There were some that were done that predated my

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23:1 work there. Some, because I know of one that was  
2 incorporated with some kind of a deal with Portland  
3 General that happened right before I moved to the trading  
4 floor. But I think all of the other transmission,  
5 long-term transmission requests, I was involved in. And  
6 interconnection questions.

7 Q So you were trying to assist someone to get  
8 long-term transmission. Who might be some of the traders  
9 you remembered coming to you to get your assistance with  
10 that?

11 A Holli Krebs, spelled H-o-l-l-i, I think it's  
12 K-r-e-b-s, she didn't do long-term transmission requests,  
13 usually. She was a mid-marketer, and also Paul Choi  
14 helped buy some transmission, he was a mid-marketer as  
15 well. And Jake Thomas, who was an originator who I helped  
16 get some long-term transmission for and also  
17 interconnection. I can't recall all of them. There  
18 weren't a lot. We just didn't buy a lot of transmission.  
19 We mostly traded basis points or basic trading business.

20 BY MR. BRUNO:

21 Q Who owned the transmission assets? Did one  
22 particular book own it or how was it -- how did it work on  
23 the trade floor?

24 A It depended on who wanted them. Usually the  
25 mid-marketing ones that I mentioned were owned by the

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24:1 trading book and the long-term ones were purchased for  
2 specific generating projects. And I don't even recall if  
3 we ever finalized the deal that I did for the originators  
4 that Bonneville transmission that I bought for Jake,  
5 because we sold that, I was going to say flipped, but  
6 probably wouldn't like that, we sold that project. It was  
7 a generator that we were developing and I believe we sold  
8 it.

9       So I don't think we bought the transmission  
10 ultimately. But I mean that was the kind of thing,  
11 everything was constantly changing. Something that you  
12 thought was going to be for a long-term deal that we were  
13 going to have for a long time, you found out the next week  
14 that the deal was going to be sold. So you had to react  
15 and change your position based on that. Well, maybe just  
16 trying to keep an option for your customer to buy the  
17 transmission rather than being so concerned about how long  
18 term you were going to be able to keep the transmission  
19 for.

20       Q   Going back to long-term transmission, was there  
21 any particular book or any particular portion of the trade  
22 floor that controlled those assets, with regard to having  
23 other traders have to go to them to use them for a  
24 particular deal?

25       A   I think it was mostly -- I think it was mostly

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25:1 the trading book that had all the transmission. I don't  
2 know where that Portland General transmission was, but I  
3 think, or the one that was related to that Portland  
4 General deal, but I think that was in the trading book. I  
5 don't think it was in the origination book.

6 Q Who would control that trading book?

7 A Tim Beldon.

8 Q Anybody else have authority to say yes, go  
9 ahead and do it?

10 A No. I mean he would be responsible to his boss  
11 for that.

12 BY MR. ROSENBERG:

13 Q Who was Tim Beldon's boss?

14 A I didn't really know the people in Houston very  
15 well so I can't remember unfortunately.

16 Q But beyond Portland, Tim Beldon was the final  
17 word in Portland?

18 A Right.

19 BY MR. BRUNO:

20 Q I have a couple more questions.

21 I had heard that -- let me back up a minute.

22 Who ran the California book there on the floor?

23 A I think that was Jeff Richter, R-i-c-h-t-e-r.

24 I think there was somebody before him who ran it who left,  
25 though. I think Jeff was just taking that over. And so



26:1 he only handled it for a few months. I can't remember at  
2 the time I left how many months he had handled it. Before  
3 that there was another guy who I didn't know very well. I  
4 can't recall his name. He went down to Houston who  
5 handled California. But ultimately he reported to Tim.  
6 Q Was it Kevin Presto?  
7 A Kevin Presto worked in origination and Kevin  
8 was involved in that Portland General transaction. But  
9 then Kevin went down to Houston. I don't think he was  
10 ever in trading.  
11 Q I just want --  
12 A Kevin Presto became head of the East desk, too.  
13 I'm trying to think of the name of the guy that Tim  
14 reported to. Gosh.  
15 Q Did you ever meet the man?  
16 A Yes, I did. I met him on two occasions. I  
17 can't think of his name.  
18 Q Can I give you a name, John Lavorato?  
19 A John Lavorato was, yes, I think Tim reported to  
20 him at the end, but it wasn't who he reported to  
21 initially.  
22 Q It wasn't Mr. Whalley, was it?  
23 A Gosh, I really don't know those guys in  
24 Houston. I'm sorry. They can tell you better than I can.  
25 Q As part of your job, would you get to know the

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27:1 portfolio of transmission assets that Enron had?  
2 A Only to the extent, you know, when I helped  
3 them buy them. So if they bought stuff without asking me,  
4 I didn't know about it.  
5 Q Was there a book where they kept track of all  
6 the transmission assets they had?  
7 A There were a lot of different databases for all  
8 the information that they had. As I reflected in my  
9 notes. I don't know which one of those databases the  
10 transmission information was in.  
11 Q Do you remember ever seeing a report where it  
12 detailed that kind of information?  
13 A No, but my notes have a listing of the  
14 databases that at least I think they are all of the  
15 databases that we had.  
16 Q Can you just refer to that page, if you can at  
17 this point and then once you find it, if it's Bates  
18 stamped if you could give us the number?  
19 A It's not Bates stamped.  
20 MR. REED: I sent a Bates stamped copy.  
21 THE WITNESS: These are --  
22 BY MR. BRUNO:  
23 Q Let's see if we can identify the page you are  
24 actually looking at.  
25 A Okay. Unfortunately, I didn't put page numbers

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28:1 on these.

2 Q Would this help to look at sheets that were  
3 faxed to us?

4 A Yes. I don't know if the transmission  
5 information was in these programs or not, but I thought  
6 that when we talked about providing information to the PUC  
7 in California, that these were the databases that had the  
8 information that were responsive to those questions, and  
9 so they are all of the databases that I'm aware of that  
10 had deal information in them. And the programs, they were  
11 computer programs, were called Enpower schedule sheets,  
12 caps, volume management, and I have written down losses.  
13 I guess that might be some kind of a report. It's on page  
14 26.

15 Q Bates stamped?

16 A MH 00266.

17 (Hain Exhibit 4 identified.)

18 THE WITNESS: There was one other thing I  
19 wanted to say about this page we were just talking about.  
20 There is a reference on here to the forward OB report and  
21 that stands for Forward Obligation report. I don't  
22 remember if that is a report that comes out of -- is  
23 produced by one of these programs or if that is a separate  
24 program. But I saw the reference on there and I wanted to  
25 point that out to you.

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29:1 BY MR. ROSENBERG:

2 Q That is part of the exhibit submitted by your  
3 counsel.

4 MR. REED: I think it was page 26.

5 MR. BRUNO: MH 0026.

6 BY MR. BRUNO:

7 Q Is that something you would see in the course  
8 of your business?

9 A No, I had heard -- occasionally I heard, would  
10 here the traders talking about somebody, about caps or  
11 something about Enpower, but I never -- I didn't review  
12 any of this stuff on a day-to-day basis. That was our  
13 reasoning for asking Tim about where to get the  
14 information that was being requested in the data requests.

15 Q Okay. We will get to that in a minute.

16 BY MR. ROSENBERG:

17 Q You mentioned that you weren't on some  
18 committees, you mentioned you were on some. You started  
19 to say a committee on congestion management?

20 A Right.

21 Q What other committees were there?

22 MR. REED: Talking about --

23 BY MR. ROSENBERG:

24 Q At Enron?

25 A It was RTO West.

---

30:1 Q Was congestion management one?

2 A Congestion management. Those were the only  
3 ones that I recall us participating in. There might have  
4 been, you really have to ask --

5 Q But you weren't the representative on that  
6 committee?

7 A No, I wasn't.

8 Q Do you know who was?

9 A I think it was Steve Walton.

10 Q So what you have been describing in the last  
11 few minutes was the day-to-day work that you did on the  
12 trading floor?

13 A Right.

14 Q When you were assigned to it. Were you called  
15 upon to do any unusual or special projects that weren't on  
16 a day-to-day basis?

17 A Yes. I worked on the Silver Peak project with  
18 litigation counsel.

19 Q And just very generally, what did your work in  
20 that involve?

21 A I learned about the -- what the power exchange  
22 was investigating and tried to help in comparing the  
23 procedures under the tariff to how we were being treated  
24 by the power exchange. We felt that they were trampling  
25 on our due process rights. And so I worked with outside

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31:1 counsel to try to get us treated better by the power  
2 exchange.

3 Q Do you recall who outside counsel on this  
4 matter was?

5 A It was Richard Sanders. I'm trying to remember  
6 what else I did on that besides procedural. I might have  
7 reviewed the tariff to see if there was a tariff violation  
8 in that case.

9 MR. REED: Did you say with outside counsel?

10 THE WITNESS: I'm sorry, no. He worked with  
11 outside counsel. I worked with Richard. He was in-house  
12 litigation counsel. I might have looked to see if there  
13 was a tariff violation in that case, but I can't recall.

14 BY MR. ROSENBERG:

15 Q Was this a California issue?

16 A Yes, it was a California issue.

17 Q So unusual or special projects, and by  
18 "unusual" I just mean not the majority of what you did  
19 during the day.

20 MR. REED: During the entire time she was  
21 there.

22 BY MR. ROSENBERG:

23 Q During the entire time.

24 A There were a lot of big FERC cases that came  
25 up, rulemaking and that sort of thing. That weren't sort

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32:1 of day-to-day work, but they were big chunks of my time?  
2 The Commission, they did a notice of proposed rulemaking  
3 on regional transmission organizations. We had to file  
4 comments and file comments on that and I organized  
5 meetings in Houston to try to respond to that and file  
6 comments.

7 Q So Silver Peak and any other projects?

8 A None that I can think of off the top of my  
9 head.

10 Q Did you participate in any trading activities  
11 for the traders -- training activities for the traders?

12 A Training activities?

13 Q Yes.

14 A When I worked at Portland General, I, and sort  
15 of segueing into the time that I started working at Enron,  
16 I did training on Order 888 and 889. And then I passed  
17 that training off to Christian Yoder, and Christian began  
18 handling that right about the time I transferred over to  
19 Enron Corporation.

20 Q What did that training involve?

21 A We made sure that everybody who worked for the  
22 company came in and understood the rules of Order 889 and  
23 had them sign a certificate saying that they would comply  
24 with them. Seems like we did antitrust training, too at  
25 that time, but I can't recall. I worked with another

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33:1 attorney from Houston on that.

2 Q Did any of that training involve requirements  
3 involving tariff issues, involving scheduling?

4 A No. We didn't. I didn't really know the  
5 California tariff, if that is what you are talking about,  
6 I didn't really know the California tariff very well. We  
7 had a group that was down in California, Sue Mara,  
8 primarily, who regularly filed protests on all the  
9 California tariff files, and she knew what was in the  
10 tariffs. But I didn't really know them, but I was trying  
11 to get to know them. And at about the time that I moved  
12 in behind the realtime desk was being encouraged to try to  
13 learn more about the California tariffs.

14 Q Okay. How about just training with respect to  
15 scheduling in general, Northwest, California, Southwest?

16 A No, no, no. We didn't do that.

17 Q Who did that?

18 A I don't know who did it or whether it was done  
19 by attorneys. I think the traders knew how to schedule  
20 things and they met weekly about what they were going to  
21 do and how they were going to do it. I was never invited  
22 to those meetings.

23 Q If a trader had a question on scheduling, would  
24 he go to regulatory or governmental affairs with issues on  
25 scheduling?

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34:1 A On scheduling in California, he wouldn't come  
2 to me. I don't know who he went to.

3 Q Was there a person in governmental or  
4 regulatory affairs that specialized in California issues?

5 A Well, Sue may have been able to help him. On  
6 the other hand, the guys knew the tariff pretty well  
7 themselves and kept copies of it. So they could try to  
8 understand it. I also understand that part of their  
9 reason for bringing Christian over to work with the  
10 traders was so that he could help them more with their  
11 transactions. And I believe they brought Steve Holland  
12 specifically so they could get to understand the  
13 California tariff better. Whether he ultimately ended up  
14 doing that or not, I don't know.

15 Q So as you sit here today, you don't recall any  
16 questions being posed to you about issue is regarding  
17 scheduling?

18 A No. I know we had scheduling in California,  
19 because there were one of the mechanisms that I was asked  
20 to file at FERC was tariffs so that we could do business  
21 with Portland General Electric, because there was some  
22 kind of a scheduling problem, scheduling into California,  
23 such that if you didn't own generation, you couldn't  
24 schedule into California. So you had to find a generator  
25 who was willing to work with you, so that you could get

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35:1 your schedule timed right.

2           And we regularly transacted with various  
3 parties in the Northwest to make sure we could do that,  
4 but we weren't allowed to schedule or do those kind of  
5 deals with Portland General Electric because they were our  
6 affiliate. So I filed a tariff and Portland General  
7 Electric filed a tariff so we could do those kind of deals  
8 with each other, as well as the other market participants  
9 who would help us out.

10       Q   So on that singular issue with Portland General  
11 Electric traders did come to you for some --

12       A   They didn't come to me for guidance, no. I was  
13 asked by Tim to file a tariff with the FERC and at the  
14 same time, actually what happened was I was leaving  
15 Portland General Electric at that time and I believe that  
16 I wrote Portland General's filing to do these kinds of  
17 transactions, and I think outside counsel, Bracewell &  
18 Patterson, did work for Enron, but I helped to advise on  
19 it. That is just my recollection.

20       Q   So the impetus didn't come from a trader but  
21 came from discussions with general counsel?

22       A   Well, I don't know on our side, I guess it came  
23 from, I'm assuming it came from the traders. I mean when  
24 they wanted to do business, they would tell us what their  
25 problems were and suggest resolutions to us and tell us

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36:1 what they wanted us to file.

2 Q But ultimately who made the decision?

3 A To file?

4 Q To file.

5 A Tim Beldon.

6 BY MR. BRUNO:

7 Q When did that filing occur, do you know?

8 A Actually that was back then, that was that  
9 early -- I don't remember whether it was that early or  
10 not. You know what it was? I'm getting this confused.

11 What I did for Portland was their market-based rate  
12 authority. That is what I did for Portland, because they  
13 didn't have market-based rate authority. That is what it  
14 was. This was a subsequent filing, and so I did the  
15 filing. I worked on the filing for Enron. So what was  
16 your question again?

17 Q When did that occur, roughly.

18 MR. REED: What exactly?

19 THE WITNESS: The filing to do, I will call it  
20 parking for lack of a better term. Okay. What it meant  
21 was that we could sell to Portland General and then buy  
22 back from them.

23 BY MR. BRUNO:

24 Q And for that purpose Portland General needed to  
25 have market-based rate authority; correct?

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37:1 A I think I actually filed that before. I think  
2 market-based rate authority was filed right at the time I  
3 left. Because they didn't have it. But I don't think  
4 they filed the parking proposal at that time. I think  
5 that was filed later.

6 Q Were you at Portland General when you filed  
7 that tariff?

8 A The parking?

9 Q Correct.

10 A No, I was with Enron. I'm sorry, I confused  
11 the two.

12 Q Do you remember who your counterpart was at  
13 Portland General at that time?

14 A Might have been Robin Tomkins.

15 Q And you mentioned Bracewell Patterson as being  
16 part of one of these filings. Do you remember which one  
17 it was?

18 A I think it was Bracewell.

19 BY MR. ROSENBERG:

20 Q Which filing?

21 A They were part of virtually every regulatory  
22 filing that we did. The only reason I'm hesitating is  
23 because I think that LeBoeuf helped us with the  
24 market-based rate authority filing for Portland General  
25 because they -- occasionally LeBoeuf represented Portland

---

38:1 General and occasionally represented the originators, but  
2 not the traders.

3 Q And the attorney that was involved with  
4 Bracewell Patterson with regard to these regulatory files  
5 was who, Jeff Watkiss?

6 A Jeff did most of them. And Ron Carroll did a  
7 tremendous number of West Coast files. He did most of the  
8 West Coast files.

9 (Discussion off the record.)

10 THE WITNESS: I hope this information I'm  
11 giving you is helpful.

12 MR. ROSENBERG: The information is helpful.

13 BY MR. ROSENBERG:

14 Q Okay. You described pretty broad areas and  
15 specific transactions you worked on. What else did you  
16 work on that you can sit here today and recall? Did you  
17 ever work on congestion issues with the traders?

18 A That was an area that, it was a very high level  
19 discussion that we had. There are two pages in my notes,  
20 where we had a meeting in Houston and it was with Jeff  
21 Skilling, and Tim was there and Kevin Presto was there,  
22 and a lot of the high level traders from Houston were  
23 there.

24 Q Who, if you can recall?

25 A I don't remember the names and unfortunately I

---

39:1 didn't, I didn't know who they were and I didn't write  
2 them down at the time.

3 BY MR. BRUNO:

4 Q Could we refer to the notes and see if that  
5 would help your recollection?

6 A I went through them and I know that I can't  
7 remember who was there, unfortunately.

8 Q Would this be helpful to go through the  
9 numbered copies?

10 A Oh, good. Actually I'm not sure if it's in  
11 this batch or not.

12 BY MR. ROSENBERG:

13 Q Would it be with the materials that appeared in  
14 the California attorney general's Web site?

15 A It was definitely from the California attorney  
16 general's Web site.

17 Q Can you tell us what it looked like. We will  
18 have someone look for it.

19 A Unfortunately it was attached to another  
20 document and it was the last two pages of it. I think it  
21 was in handwriting, rather than printed. By the way --  
22 well, never mind. Some of these documents that were put  
23 in with all this stuff aren't mine.

24 Q In the materials you provided?

25 A Right. They might have been in my files, but

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40:1 they weren't documents that I created or whatever.

2 MR. ROSENBERG: Well, the document that we were  
3 referring to earlier, if it's in the attorney general's  
4 Web site, we have what we believe is a complete set, if  
5 you would like to take a look at it and see if you can  
6 locate it. While you are looking, we will mark as Exhibit  
7 5 a document Bates stamped between 0001 and 0046, and all  
8 numbers in between, and refer to it as Hain Exhibit 5.

9 (Hain Exhibit 5 identified.)

10 THE WITNESS: Generally speaking, the traders  
11 didn't come to me to ask my views about congestion  
12 management, because congestion management is an economics  
13 issue, which I at that time didn't really understand. I  
14 was just learning about.

15 BY MR. ROSENBERG:

16 Q Well, you participated in what you said was a  
17 high level discussion?

18 A That's right.

19 Q In Houston. Tell us the genesis of that  
20 discussion and what you took from it.

21 A The genesis of the discussion was we were  
22 supposed to file at FERC our comments on whether -- what,  
23 really, what type of congestion management should be done  
24 by a regional transmission organization. And the East  
25 desk liked one version and the West desk liked another

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41:1 version of congestion management. I think it was  
2 primarily because the East desk was accustomed to one  
3 method and the West desk was accustomed to another method.  
4 Q Okay. Who went with you from Portland to this  
5 meeting?  
6 A Tim was there, Christi Nicolay was there. Sara  
7 Novasel was there. Joe Hartsoe was there. Jim Steffes  
8 was there. Other traders. I'm not sure.  
9 Q Was Swerzbin there?  
10 A No, Swerzbin wasn't there.  
11 Q Were any people from the California desk there?  
12 A No. Just Tim.  
13 Q Nobody from the realtime desk?  
14 A No. Nobody from the realtime desk.  
15 Q Over how long a period of time did this  
16 discussion take place?  
17 A It was just, we were there for the day. We had  
18 lunch or dinner, I can't recall which.  
19 Q And was some kind of white paper or some idea  
20 paper produced?  
21 A Yes, Sara Novasel was asked to write the paper  
22 and she wrote it.  
23 Q Does that paper have a title?  
24 A I don't recall. I don't have it unfortunately.  
25 Q How would it be referenced?

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42:1 A The only thing that I recall about it was I  
2 think it ended up being a PowerPoint presentation. I  
3 thought it was going to be more like a white paper and I  
4 think it ended up being a PowerPoint presentation. I  
5 thought it was pretty watered down. I was hoping that it  
6 was going to be more of an explanation of how congestion  
7 management worked so that I could understand it a little  
8 bit better.

9 Q But you are saying then it ended up being a  
10 presentation as to competing versions of how the different  
11 desks wanted to handle the issue?

12 A It was a presentation as to what our ultimate  
13 policy was going to be about what we were going to say to  
14 FERC. And I have found my notes. They are not in the  
15 numbered material.

16 Q So we will make this a separate exhibit. We  
17 will call it two-page exhibit handwritten notes, which we  
18 will identify as Hain Exhibit 6.

19 (Hain Exhibit 6 identified.)

20 BY MR. ROSENBERG:

21 Q Looking at Exhibit 6.

22 A I pulled these out of your file. That is where  
23 I pulled them out.

24 Q Right. Looking at the exhibit, what -- can you  
25 add to your remarks earlier about the congestion issue.

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43:1 Were these notes taken at the meeting?

2 A Yes.

3 Q If you take a moment to just look at it.

4 A Well, the one thing that I noted was that  
5 getting the realtime energy market in place was the most  
6 important. In other words, if you are going to start up a  
7 regional transmission organization, it will likely have a  
8 day-ahead market and have a realtime market. And the  
9 question was whether people wanted to insist that it had  
10 to have a day-ahead market as well as a realtime market.  
11 And the conclusion was that getting a realtime energy  
12 market in place was the most important thing, and that the  
13 day-ahead market could come later. And then, oh, there  
14 was a discussion about physical rights for transmission,  
15 and it was my recollection that EES really wanted physical  
16 rights to transmission, but that EPMI was ambivalent about  
17 it.

18 BY MR. BRUNO:

19 Q Do you remember why?

20 A No. My notes aren't very complete on that,  
21 unfortunately. The other discussion was about whether  
22 nodal or zonal was best for congestion management, and  
23 unfortunately, I don't recall what the end result of that  
24 was, but I know it was in Sara's paper. Because that was  
25 the reason that this meeting was scheduled in the first

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44:1 place, because there was a difference between the East  
2 desk and the West desk about whether it should be nodal or  
3 zonal. And we had to figure out what our position was  
4 going to be before we could make a policy statement on it.

5 BY MR. ROSENBERG:

6 Q At that meeting, did you refer to some  
7 literature on the subject in terms of scholarly type  
8 stuff? Did you make any reference to it in your notes?

9 A No. I don't. Let's see.

10 Q Who favored the nodal approach, if you  
11 remember?

12 A I believe the East desk favored nodal and the  
13 West desk favored zonal.

14 Q Do you know what were the arguments advanced by  
15 the West desk?

16 A I think they just liked the way the California  
17 market was working and also I think there were arguments  
18 that were made that the western transmission system  
19 operated differently than the east transmission system. I  
20 think there was also some concern at that time about the  
21 number of needs that you had with nodal and that was back  
22 before people on the East Coast or entities on the East  
23 Coast started providing some kind of aggregation of the --  
24 of nodes, so that you could, for example, have congestion  
25 management pricing based on hubs, or aggregated. I think

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45:1 they are called aggregated zones. I'm not sure of the  
2 timing of this, but I think that is --  
3 BY MR. BRUNO:  
4 Q On the top here it says "PJM." Do you remember  
5 what the reference was to PJM here?  
6 A I don't.  
7 Q What about "FTRs need to get," is that "through  
8 today"?  
9 A "To load."  
10 Q Do you know what that is about?  
11 A I think that is what EES was saying. They  
12 needed FTRs so they could get to the load.  
13 Q What do they mean by --  
14 A "Dirty hedges." I have no idea what that  
15 means. I don't know what a dirty hedge is.  
16 Q It says "bottom line Kevin"; is that right?  
17 A Right.  
18 Q Who is Kevin?  
19 A That was Kevin Presto and I don't know what he  
20 was going to say there, unfortunately. They were talking  
21 so fast that I thought that I would have a chance to go  
22 back and ask them afterward if I was going to write up  
23 this paper. And since Sara ended up writing it, I didn't  
24 fill in the blanks.  
25 MR. ROSENBERG: At the time you wrote it you

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46:1 thought you might be called on.

2 THE WITNESS: You just never know, so.

3 BY MR. BRUNO:

4 Q I thought you mentioned earlier about Beldon  
5 being at the meeting?

6 A It's like watching a tennis match, you know,  
7 listening to traders.

8 Q Did you say Mr. Skilling, is that the name?

9 A Yes, he was.

10 Q I notice your notes are not dated. Do you know  
11 roughly the date of this meeting?

12 A I can't recall.

13 Q Do you remember what year it might have been?

14 A I think it was 2001.

15 Q Do you remember a time, spring, fall, summer?

16 A I don't.

17 MR. ROSENBERG: Did you travel to Houston  
18 often?

19 THE WITNESS: Probably about once a quarter.

20 BY MR. BRUNO:

21 Q On the second page, there's a notation on the  
22 side like an asterisk and then a paren. Can you read what  
23 it says there?

24 A "Load gets network transmission, share of FTRs  
25 held by party."

---

47:1 Q Do you know what that is about?  
2 A I think it's one method of congestion  
3 management where the FTR, the right to the FTRs are held  
4 by the load.  
5 Q And was that true in California or was that  
6 true in the East?  
7 A Unfortunately I don't know how FTRs worked in  
8 California.  
9 Q And then at the bottom, I can't read what it  
10 says there. Something "market terrible for Enron"?  
11 A ICAP markets, that stands for installed  
12 capacity, I don't know what the A stands for. I guess  
13 it's just CAP is short for capacity, installed capacity  
14 markets. Basically what is on these notes is what the  
15 traders were saying that they wanted and that is the  
16 bottom line here. These weren't my ideas, they were just,  
17 I was just transcribing what they were saying or trying to  
18 transcribe what they were saying.  
19 Q Then back on the first page, there's an  
20 asterisk and looks like it starts with "proppy bus"?  
21 A "Proxy."  
22 Q "Proxy bus," I'm sorry. Can you read what it  
23 says after that?  
24 A "Fighting for hybrid flow." Looks like a dash.  
25 Oh, "hybrid flow based." If it costs another six months



48:1 to a year to set up a realtime market.  
2 Q Do you know what that might be referring to?  
3 A A flow based is another kind of congestion  
4 management. And I don't know how it works.  
5 Q You had mentioned that Ms. Mara or Sue Mara, is  
6 that M-a-r-a?  
7 A Yes.  
8 Q Is that right?  
9 A Mara.  
10 Q Was she working for EES at the time?  
11 A Well, she was working for Enron Corporation  
12 ultimately, but she had earlier worked for EES.  
13 Q Was she based in San Francisco?  
14 A Yes.  
15 Q Do you know where Mrs. Mara is today?  
16 A No, I don't. I imagine she's still in  
17 San Francisco, somewhere.  
18 Q I understood you to say earlier that Christian  
19 Yoder was there to help with transactions; right?  
20 A Yes.  
21 Q Was that trading transactions?  
22 A Yes.  
23 Q Or another kind?  
24 A Yes, he was their transaction law attorney.  
25 (Discussion off the record.)

---



49:1 BY MR. BRUNO:

2 Q Steve Hull was there to help Christian with the  
3 transactions, is that what you were saying?

4 A Yes.

5 Q And your primary purpose was there to help with  
6 tariffs; is that correct?

7 A To help with protests, primarily. But since  
8 Bonneville didn't do a lot of files, there were a lot of,  
9 I went to a lot of negotiations on their tariffs.

10 Q But I understood you to say that you were not  
11 there to provide assistance with the California tariff;  
12 right?

13 A No. I wasn't. Once about the same time frame  
14 as all this I started learning about California and  
15 started getting involved in every single FERC filing that  
16 we did protesting California. But before that, I didn't  
17 know anything, I didn't know the California tariff, I  
18 hadn't learned about it. And so I was really just getting  
19 up to speed about it at the time that this stuff happened.

20 MR. REED: Just clarify what you mean when you  
21 say "this stuff."

22 THE WITNESS: The notes.

23 MR. BRUNO: Do you want to take --

24 THE WITNESS: I guess the California CPUC's  
25 data request is the time frame.



50:1 MR. BRUNO: Let's take a 10-minute break.

2 (Recess.)

3 MR. ROSENBERG: Back on the record. Let the  
4 record reflect there have been no substantive discussions  
5 about anything, about the testimony during the break.

6 BY MR. BRUNO:

7 Q You wanted to make a clarification for the  
8 record?

9 A I wanted to clarify the last question. What I  
10 started working in the last period of time that I was at  
11 Enron was working on filings that were made by the ISO and  
12 the PS and protests of those and also on complaints that  
13 were filed at FERC, not on advising the traders on the  
14 tariffs. That is not what I was working on.

15 Q So the period of time you are describing right  
16 now in your clarification is the period of time prior to  
17 you moving to the trade floor?

18 A No. It was from, I'm guessing the summer of  
19 2001, until I left in April, I'm sorry, 2000, to the  
20 summer of 2001, or April of 2001, when I left. I was  
21 learning about the California tariff through the  
22 California ISO's filings. And by protesting them. And  
23 you can look at the files that were made to tell the time  
24 frame. I can't recall precisely, but my name starts  
25 appearing on the California ISO files that were made.

---

51:1 BY MR. ROSENBERG:

2 Q So if I understand correctly rather than take  
3 the California tariffs and learn them abstractly, you  
4 would be presented with an issue and then you would go  
5 into the tariff and see what you could learn from dealing  
6 with that issue?

7 A No, what I would do is the California ISO would  
8 file a tariff proposal and say here is how we are going to  
9 make changes to this service that we provide. And I would  
10 look at it and say to the traders do you have a problem  
11 with these things, you know, what should we say in  
12 response to FERC about what you don't like about it.

13 Q Did those requests come up through Tim Beldon  
14 or individual traders would come up to you directly?

15 A No. That is not how it arose. What would  
16 happen would be the ISO would make a filing and I would  
17 read it. And I would say to the traders what do you think  
18 about this. And occasionally they would read the filing  
19 themselves. Tim would occasionally read the files, often  
20 read the files if it was an important one and tell me what  
21 the problems were with it. He wanted me to take the  
22 approach of more aggressively stating what I thought our  
23 policy was, but he was an economist, I wasn't, and so I  
24 really couldn't create the issues for them. They had to  
25 tell me what was wrong with them.

---

52:1 BY MR. ROSENBERG:

2 Q So once they told you what the issues were,  
3 what role did you play, what was your role?

4 A I would typically try to draft an outline of a  
5 protest.

6 Q What steps would you take to prepare that  
7 outline?

8 A I would usually just talk to the traders.  
9 Sometimes I would try to, like I said, create the outline  
10 by reading the filing and determining here is what the ISO  
11 is doing and then ask the traders for what they thought  
12 about it and then write it up that way, and sometimes I  
13 needed to hire a consultant to help understand it. I did  
14 that on a couple of occasions.

15 Q Who would you hire?

16 A We usually use Tabors Caramanis. T-a-b-o-r-s,  
17 C-a-r-a-m-a-n-i-s. That's just a guess.

18 Q They are consultants on tariff issues?

19 A They were economists and engineers.

20 BY MR. BRUNO:

21 Q Do you remember who you worked with at Tabors  
22 Caramanis?

23 A Ellen. Unfortunately, Ellen changed her name.

24 Q Is that Ellen?

25 A E-l-l-e-n. Ellen.

---

53:1 Q Did you ever work with Richard Tabors?  
2 A It's in my notes in here.  
3 Q Take a moment and see if you can refresh your  
4 recollection by looking at the notes.  
5 A It's in the other package.  
6 Q Is that Exhibit 5 you are looking at or a  
7 different record?  
8 A It's not Exhibit 5. It just says "Ellen."  
9 Fred Pickle worked on one, as well, but I can't remember  
10 whether he was at Tabors or where he was.  
11 Q Can you show us what you are referring to  
12 there. So these are handwritten notes in the upper  
13 left-hand corner, there's a number, can you read that  
14 number for us?  
15 A It says box 1669636493.  
16 MR. REED: I think these are probably what you  
17 had in your file that she's looking at.  
18 MR. ROSENBERG: From the California AG Web  
19 site.  
20 THE WITNESS: That's right. These are the  
21 second press release, the documents that were attached to  
22 the second press release.  
23 BY MR. BRUNO:  
24 Q Did you ever work with Mr. Richard Tabors?  
25 A Occasionally.

---

54:1 Q Do you remember when you would have worked with  
2 him?

3 A Well, for example, I think he worked on this  
4 congestion management stuff. He worked on a lot of the  
5 higher level things and worked more directly with Joe  
6 Hartsoe, and Ellen would often work more on California  
7 issues.

8 Q Was Ellen at the meeting that you referenced  
9 earlier?

10 A On congestion management? No.

11 Q Was Mr. Tabors there?

12 A He might have been there.

13 Q Who were some of the traders you spoke to about  
14 when you needed to have them read files or wanted to  
15 discuss a filing at the Cal ISO?

16 A Usually Tim, sometimes Jeff Richter, and I  
17 think John Forney as well. And I think Greg Wolfe,  
18 W-o-l-f-e.

19 Q And what desk did Mr. Wolfe work at?

20 A He was the head of a -- I don't recall what it  
21 was called, but they just started it probably nine months  
22 before I left. It was called the service desk, I think.  
23 I think it was primarily to work with some existing  
24 accounts that we had with some small generators.

25 Q Did he ever trade?

---

- 55:1 A I think so, but I don't really know that for a  
2 fact.
- 3 Q I just want to ask a clarifying question.  
4 Earlier you referred to Mr. Yoder as a transaction  
5 attorney. Can you describe better about what you mean by  
6 that?
- 7 A Yes. Oftentimes when we would do a deal with  
8 somebody, there would be paper and Christian was asked to  
9 review the paper, the contract, the deal sheet, whatever  
10 it was called. I think he often worked on the kinds of  
11 provisions that lawyers work on typically.
- 12 Q When you say "deal sheet," you mean a  
13 particular transaction between a trader, I mean Enron  
14 trader and an outside party?
- 15 A Yes. Not really a deal sheet. A deal sheet  
16 was -- a deal sheet was a summary that the traders used to  
17 say what the transaction was, but this was more like  
18 reviewing contracts.
- 19 Q Would this be a document that was produced  
20 sometime after the deal sheet had been produced?
- 21 A Yes.
- 22 Q Did Mr. Yoder work on other kinds of  
23 agreements, as well?
- 24 A Other than transactional work?
- 25 Q Correct.
-

56:1 A I think that's, that was primarily what his job  
2 was. Like I said, he also did code of conduct training.  
3 You know, I think as things heated up in California, he  
4 ended up getting involved in a lot of issues that were  
5 sort of supportive of litigation. Like I think he worked  
6 with Steve Hull on, when there was the default in the PX  
7 and how to handle that. I think essentially supervised  
8 Steve Hull's work on those kinds of things.

9 Q When did Mr. Hull -- when was Mr. Hull hired at  
10 Enron or when did he first -- let me back up.

11 When did he first begin to work at Enron?

12 A I don't know. I reviewed the billing sheets.

13 MR. REED: You mean as an Enron employee?

14 BY MR. BRUNO:

15 Q No, when did he begin to work at Enron?

16 A You mean when did he, working for outside  
17 counsel, start doing contract work for Enron?

18 Q Whenever he started providing, when did you  
19 first become aware Mr. Hull was working for Enron?

20 MR. REED: Clarify what you mean by "working  
21 for Enron."

22 BY MR. BRUNO:

23 Q Mr. Hull was an outside counsel; correct?

24 A Right.

25 Q He worked for Stoel Rives; correct?

---



57:1 A Right.

2 Q My question goes to when did Mr. Hull start, to  
3 your knowledge, start providing services to Enron on a  
4 more frequent basis?

5 A The only thing I have to go by is his billing  
6 sheets, and they indicate that I guess it was around  
7 September, I think September. I wasn't involved in hiring  
8 him and so he just kind of appeared one day.

9 Q Did he also work on the trade floor?

10 A Yes, he did.

11 MR. ROSENBERG: What was his original  
12 engagement for, as you understood it?

13 BY MR. BRUNO:

14 Q Well, you can answer his question. I was going  
15 to refer to Exhibit 4 and see if he has been indicated on  
16 Exhibit 4.

17 MR. ROSENBERG: That is not 4.

18 BY MR. BRUNO:

19 Q Here is Exhibit 4. See you are indicating now  
20 where Mr. Hull sat.

21 MR. ROSENBERG: The record can reflect she has  
22 written SH where Mr. Hull sat.

23 THE WITNESS: Right. I was trying to come up  
24 with a north map position on here, but I can't remember  
25 which way was north. That sounds terrible.

---

58:1 BY MR. BRUNO:

2 Q My next question is, do you know why Mr. Hull  
3 was brought on board?

4 A It was my understanding that it was because  
5 California tariff was so complicated that the traders  
6 wanted a better understanding of the tariff.

7 MR. ROSENBERG: Did you talk to Mr. Hull about  
8 his engagement?

9 THE WITNESS: No. He was hired by ECT, and  
10 actually at that time it was probably ENA, Enron North  
11 America.

12 BY MR. ROSENBERG:

13 Q Did you give him an orientation as to what you  
14 knew about the FERC and Cal ISO?

15 A I don't think I gave him any type of formal  
16 orientation. Steve and I knew each other from working on  
17 Bonneville cases together, so he just kind of appeared one  
18 day and said what should I read and we were talking about  
19 what was happening at FERC and he just started reading  
20 some things and we would talk occasionally. It was rather  
21 informal, as I recall.

22 Q So you didn't understand his coming to the  
23 trading floor to supplement anything you were doing, he  
24 was going to do something independent of what your tasks  
25 were?

---

59:1 A Right. He didn't work in regulatory or  
2 government affairs. And I had actually expressed concern  
3 to Christian when he was first brought in, because I  
4 wanted to make sure that he wasn't going to be working on  
5 regulatory matters because I thought his firm might have a  
6 conflict with some of the cases that we had in the  
7 Northwest, because Stoel Rives was representing PacifiCorp  
8 in those cases.

9 Q PacifiCorp?

10 A PacifiCorp, all one word, with a capital C.

11 Q What did Mr. Yoder tell you about the  
12 delineation of the roles?

13 A That he wasn't going to be working -- Steve was  
14 not going to be working on regulatory matters, so there  
15 was no conflict.

16 Q Was there a clear division between regulatory  
17 matters and the type of litigation he had been engaged in  
18 before?

19 A The type of litigation, I'm not sure I follow.

20 Q What brought his work outside regulatory --

21 A Well, it was my understanding that he wasn't  
22 going to be commenting on the day-to-day files. That he  
23 wasn't going to be filing protests at FERC or filing  
24 complaints. But he actually did end up getting involved  
25 in some of those, because some of those became litigation

---

60:1 matters that were being handled by -- weren't being  
2 handled by regulatory affairs. For example, issues -- the  
3 issue with the demise of the PX.

4 Q So while the line was clear when he started, it  
5 blurred somewhat?

6 A That's right.

7 Q As time went by. Can you just briefly tell us  
8 how regulatory and -- which later became government  
9 affairs was structured during the time you were there?  
10 You said there were 120 employees?

11 A I can't remember, 120, 150. It was a pretty  
12 large group by the time I left. When I first started with  
13 the group, I think there were about 12, 20 of us,  
14 something like that. We all reported to Richard Shapiro,  
15 and at the time I left, I think he had, his area was, I  
16 can't remember if it was the entire world or if it was  
17 North and South America and Europe. And I think that Jim  
18 Steffes was North America. Regulatory affairs for North  
19 America.

20 There were also, there was also a split between  
21 people who worked primarily on state matters and those who  
22 worked primarily on federal matters. But we all worked  
23 together, we all coordinated with each other, and so, for  
24 example, Jeff Dasovich in California worked a lot on the  
25 state PUC matters. And also worked on the contract that

---

61:1 was -- contract negotiations between Enron and the state  
2 of California. And Sue, who was originally in the EES  
3 group, started out working both on state matters, I think,  
4 and on FERC matters, but ultimately she ended up working  
5 on FERC matters. And I only worked on FERC matters, not  
6 the state PUCs anyway. Also Bonneville.

7 (Discussion off the record.)

8 MR. BRUNO: Back on the record. I would like  
9 to mark this as next in order.

10 (Hain Exhibit 7 identified.)

11 BY MR. BRUNO:

12 Q Could you take a look at this. Exhibit 7  
13 appears to be a three-page fax to you from Greg Wolfe. Do  
14 you recognize this?

15 A Yes, I do.

16 Q It's not -- the date is not indicated on the  
17 document. Do you have any knowledge of what the date  
18 might be? I notice at the top it indicates some kind  
19 of --

20 A September, it looks like, 7, 2000.

21 Q Could that be July, 2000?

22 A September. Looks like.

23 Q I'm sorry. S is missing. I see. The document  
24 is titled "EPMI bidding strategy for generators." Do you  
25 know why this document was generated?

---

62:1 A Yes. This was Greg's response to one of the  
2 FERC's data requests. It was his first cut and drafting a  
3 response to it.  
4 Q Which FERC data request would that have been?  
5 A Do you have the package?  
6 MR. REED: You have to ask them.  
7 THE WITNESS: Do you have the Redweld material,  
8 the response to the -- or the attachments to the AG's  
9 press release?  
10 MR. ROSENBERG: I have all the attachments.  
11 THE WITNESS: The second one. These were the  
12 data requests.  
13 BY MR. BRUNO:  
14 Q This is a document, data request for  
15 generators, marketers and it has handwriting all over it.  
16 A It wasn't a formally submitted data request.  
17 It was sent to us via an e-mail from the FERC staff and I  
18 just downloaded the questions, not the full e-mail. That  
19 is what that was.  
20 MR. ROSENBERG: Is that your handwriting on the  
21 document?  
22 THE WITNESS: Yes, it is. And this is my  
23 typed-up answer. This is his response, what you have  
24 marked as Exhibit 7 is Greg's handwritten response to  
25 number 2. And then this is actually his, if you will,

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63:1 note down at the bottom.  
2 BY MR. BRUNO:  
3 Q Okay. Then the next document we will have to  
4 mark indicates "EPMI bidding strategy for generators," and  
5 at the bottom it indicates "P\reg affMCH, Cal ISO"?  
6 A Right. What I did is have his notes typed up  
7 and made some minor changes to it, but that became our  
8 response to question number 2.  
9 Q And the designation at the bottom of the  
10 document that is handwritten, it appears that it was a  
11 document on the P drive?  
12 A Yes, P drive.  
13 Q This would have been regulatory affairs folder?  
14 A Right.  
15 Q MCH is your folder?  
16 A My folder.  
17 Q And there was just a folder called "Cal ISO  
18 price caps"?  
19 A Right.  
20 (Hain Exhibit 8 identified.)  
21 (Discussion off the record.)  
22 BY MR. BRUNO:  
23 Q Exhibit 8 is a two-page document; correct?  
24 A Correct.  
25 Q And on the second page, the writing is quite

---

64:1 dim. Can you read any of those words on the page?

2 A Looks like it says "Mary Ann C-a-" something,  
3 and Karen Cordova, and this says "EES legal," and  
4 underneath it is a phone number, 853 number, that was  
5 Houston, I think. I can't see what the rest of it is, and  
6 looks like Catherine, D-a, something. Looks like a bunch  
7 of names.

8 Q Okay. Thank you. The name Dennis Benevides,  
9 who is that?

10 A He was my contact person at EES in developing  
11 the responses to these data requests.

12 MR. ROSENBERG: What was his position?

13 THE WITNESS: I don't know.

14 (Hain Exhibit 9 identified.)

15 BY MR. BRUNO:

16 Q Exhibit 9 are the typed-up notes of the fax  
17 that Mr. Wolfe sent you; correct?

18 A Yes.

19 Q Why did you go to Mr. Wolfe to provide input on  
20 this?

21 A I didn't. He saw the data requests to anybody  
22 in the trading floor who may have answers and he was out  
23 of the office and he just faxed me his written response.

24 Q Do you know if anybody else provided the  
25 response?

---



65:1 A Nobody else provided written responses. I  
2 don't think. I think I went around and asked people for  
3 answers. I think I got help with this, too, from  
4 Christian.

5 Q Was Steve Hull there?

6 A I don't think so.

7 Q And other than Mr. Wolfe, do you remember  
8 anybody else you might have spoken to about this?

9 A Dennis Benevides. I'm assuming from my notes  
10 on the side of the page that I talked to Joe Hartsoe and  
11 Jim Steffes, although I'm not sure whether I talked to  
12 Donna Fulton or not. I probably talked to Jabron Whalen  
13 and Neal Bresnan as well.

14 Q Can you spell Bresnan?

15 A I don't know if it's right. B-r-e-s-n-a-n.

16 And Richter, I probably talked to Jeff Richter. I don't  
17 think -- and anything I submitted got run by Tim.

18 MR. ROSENBERG: On number 4, where it asks for  
19 information as to certain generation sources, below that  
20 there's a notation in the right-hand side which says,  
21 appears to read "Greg does not want these guys in, but  
22 feels comfortable" and then with specific, and something.

23 THE WITNESS: "Generators." The question was  
24 whether the Commission was asking for our information  
25 about contractual relationships or whether they were

---

66:1 simply asking for the generators that we had control of.  
2 And Greg's preference was he wanted to answer the question  
3 only about the generators that we had contractual control  
4 over, operating control over. And I think I called the  
5 FERC staff and they verified that it was only generators  
6 that we had control over. That's my recollection.

7 BY MR. ROSENBERG:

8 Q Do you know who he spoke to?

9 A Whoever I got the e-mail from.

10 Q There was phone communication?

11 A I think so. I don't know whether it was sent  
12 by e-mail or not. Whether I sent the question by e-mail  
13 or not.

14 Q Well, the generators I guess that are listed to  
15 the immediate left of those, are those the ones that were  
16 included?

17 A Puget and El Paso?

18 Q Right.

19 A Those were contracts, and Montana Power, that  
20 was contract.

21 Q So Sundance and Alberta were the ones that  
22 weren't?

23 A Right. There were other ones besides those,  
24 Delano. I don't remember the names of all the units.  
25 They were mostly small units.

---

67:1 Q Was that how typically responses for data were  
2 handled, they would be circulated to anyone you thought  
3 had relevant information?

4 A Yes.

5 Q And who would make the ultimate decision of  
6 what was actually submitted to the parties that requested  
7 the information?

8 A Well, usually Tim and my supervisor would talk  
9 about it and decide among themselves.

10 Q Would you make a recommendation, as to what  
11 would be included and what wouldn't be?

12 A I would try to make recommendations, but my  
13 supervisor did what he wanted to do, typically.

14 Q Your supervisor in this context was?

15 A Would have been Jim Steffes, I think at that  
16 point.

17 Q He was not a lawyer?

18 A He was not a lawyer.

19 Q And where called for a legal conclusion or a  
20 legal interpretation, as which I imagine some of these  
21 requests called for, Jim Steffes still had the final word?

22 A I never had the final word over them, that's  
23 for sure.

24 Q I'm asking who did, I guess, if you didn't?

25 A It would have been Jim.

---

68:1 Q So, okay. So notwithstanding the fact that he  
2 was not a lawyer?

3 A That's right.

4 Q He made decisions on how to respond to requests  
5 for information?

6 A That's right.

7 Q Which may or may not have called for a legal  
8 conclusion?

9 A That's right.

10 Q Did you ever express any concerns about that?

11 A I expressed concerns initially when I was told  
12 that I was going to report to him, that he was a  
13 nonlawyer. I was told I guess that something along the  
14 lines that he reported to Richard Shapiro, who was a  
15 lawyer.

16 Q Did you ever have any confirmation that this  
17 went up the chain to Richard Shapiro?

18 A No.

19 Q So why are you left today of the impression,  
20 was it just from the initial conversation?

21 A Right.

22 Q Were there other areas where this issue  
23 presented itself, where someone was giving a legal opinion  
24 based on information you had gathered, who was not a  
25 lawyer?

---

69:1 A Well, we regularly made FERC files, protests  
2 and complaints, and Jim was the final decisionmaker on  
3 those about what was said in the files.  
4 Q Who signed off for Enron on those files?  
5 A Outside counsel.  
6 BY MR. BRUNO:  
7 Q Was that Bracewell & Patterson?  
8 A Yes.  
9 BY MR. ROSENBERG:  
10 Q So the last lawyer to see this would have been  
11 you, from Enron's point of view?  
12 A Probably.  
13 BY MR. BRUNO:  
14 Q The companies here indicated, counsel was  
15 asking you about, is that Puget, is that one of them?  
16 A Right in the middle of the page, Puget, yes,  
17 El Paso and Montana Power.  
18 Q Which El Paso is that?  
19 A I don't know.  
20 Q You don't know if it's El Paso Merchant or  
21 El Paso Electric?  
22 A We had a contractual relationship, but I don't  
23 know what entity it was.  
24 BY MR. ROSENBERG:  
25 Q Moving along that item to item 6, there's a

---

70:1 circling for "trading strategy"?

2 A Yes.

3 Q Did you place that circle there?

4 A Yes, I did.

5 Q What is the significance of you circling that  
6 term?

7 A I wanted to know what they meant by "trading  
8 strategy" because it wasn't clear from the question.

9 Q Did anyone else ask you what they meant by  
10 "trading strategy," the people who responded?

11 A We discussed what "trading strategy" meant. We  
12 tried to figure it out. That was I guess what Greg was  
13 responding to in his attempt at writing it up. We were  
14 trying to figure it out at the time, because there was, in  
15 essence --

16 MR. REED: Are you talking about this circle?

17 THE WITNESS: Trading strategy. In essence,  
18 what we felt was going on at the time was there were a lot  
19 of generators who had market power who were in California,  
20 and we thought that these questions were geared toward  
21 those generators. And since we had a small, very small  
22 amount of generation, we were assuming that these  
23 questions weren't a big deal to us, in terms of litigation  
24 risk. Or regulatory risk. But we were concerned by the  
25 use of terms like that, trading strategy, and were

---

71:1 wondering how to answer the question. Without going back  
2 and getting a definition from FERC staff as to well, what  
3 do you mean by trading strategy, how do you answer the  
4 question.

5 BY MR. BRUNO:

6 Q Did you ever get that, or ask for such a  
7 clarifying question from FERC staff?

8 A I don't recall that we did. I think we just --  
9 I think we decided in-house that we weren't going to ask  
10 FERC staff what they meant by that. We were going to  
11 interpret it the way that we wanted to interpret it.

12 BY MR. ROSENBERG:

13 Q But ultimately in the response you did adopt  
14 the term strategy?

15 A Bidding strategy.

16 Q Bidding strategy.

17 A Right.

18 BY MR. BRUNO:

19 Q Referring back to Exhibit 7, which later became  
20 I guess Exhibit 9, there is a reference there which says  
21 "many of the generators utilize natural gas emission  
22 credits, both of which are subject to daily price  
23 changes." Do you see that? I think that's on page 2 of  
24 the handwritten document, which is Exhibit --

25 A Yes. Right.

---

72:1 Q My question is, are you familiar with Enron's  
2 activity in the emissions credits market?

3 A No, I'm not.

4 Q Were you ever called to deal with any issues  
5 regarding that?

6 A Never.

7 Q Do you know who was probably the most active or  
8 most knowledgeable person about that?

9 A I don't know anything about it.

10 Q The fact that that sentence had been put in  
11 there by Mr. Wolfe, is that indicative of the fact that he  
12 may be knowledgeable about emission credits?

13 A I assume he was knowledgeable about it, since  
14 he put it in there.

15 Q I get the impression Mr. Beldon is very  
16 knowledgeable about most everything that went on there in  
17 Portland?

18 A Yes, he was very knowledgeable. Very smart  
19 guy.

20 Q So in addition to Mr. Beldon, would there be  
21 anybody else, supposing you had a question about that  
22 particular issue, who you might go to to get an answer  
23 about it?

24 A About emissions?

25 Q Correct.

---



73:1 A Well, I guess Greg.  
2 Q Greg Wolfe?  
3 A Yes.  
4 BY MR. COLLINS:  
5 Q When, before Steve Hull came into the picture,  
6 who was handling the California markets, for Enron?  
7 A In terms of?  
8 Q In terms of the legal issues that would arise?  
9 A Christian.  
10 Q And Christian was doing this, in addition to  
11 his transactional work then?  
12 A That's all he did was transactional work.  
13 Q But he didn't understand the California  
14 tariffs, as I understand; is that correct?  
15 A No, mostly the traders just understood how the  
16 market worked themselves and they didn't ask for people's  
17 opinion about how the tariff worked. They would read it  
18 themselves. I mean, the California tariff includes  
19 algorithms and things that lawyers don't typically  
20 understand. But an economist or an engineer will look at  
21 it and say I know how that works. And so they would just  
22 read it themselves.  
23 Q This is the ISO tariff you are talking about?  
24 A Right. They did also ask Sue Mara,  
25 occasionally, I think. On questions about how it worked,

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74:1 how the tariff worked.

2 Q Were they looking to you to help out with any  
3 of that?

4 A No, because I didn't know, I didn't understand  
5 the tariff.

6 Q So there is really kind of a gap in Enron's  
7 knowledge at that point as to dealing with the California  
8 and ISO tariff?

9 A That is my understanding about why they brought  
10 Steve in, was so they could understand the tariff better.  
11 I don't think he ultimately was used for what he was  
12 brought in for, because all these other things, all the  
13 litigation happened, but I think that was what he was  
14 intended to be used for, to have legal develop more  
15 expertise with the tariff.

16 Q What was Joe Hartsoe's role?

17 A Joe originally, when I first started working  
18 for him, spearheaded all of our FERC files, and then when  
19 Jim Steffes was -- essentially replaced him as my boss,  
20 Joe started working on more NERC matters, although he  
21 still advised on FERC files.

22 Q Was he involved with the traders at all?

23 A He was occasionally involved with the traders.  
24 They would ask him questions, but not about how to  
25 interpret the tariff. Joe just didn't have that kind of

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75:1 background.

2 Q And before he took your place on the trading  
3 floor, were there any other lawyers working with traders  
4 at that time?

5 A No.

6 Q So how --

7 A I don't think even think Christian was doing  
8 trading transactional work at that point. I think he was  
9 doing just working with the originators.

10 Q So if the traders had some concerns that they  
11 wanted to voice, what would they do?

12 A You mean express them about the tariff?

13 Q About the tariff or issues?

14 A If they didn't like the tariff, they talked to  
15 Sue Mara and she would -- she was supposed to be  
16 protesting all the files that were made. And if it was an  
17 ongoing issue about how the tariff worked, they worked  
18 with Sue and Sue worked with Joe Hartsoe on making files  
19 at FERC. Because Joe was supposed to spearhead all the  
20 files.

21 Q What about Bracewell & Patterson, were they  
22 also involved in that process?

23 A Bracewell was involved in virtually every  
24 filing we made at FERC.

25 Q This is Ron Carroll?

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76:1 A Primarily Ron Carroll on West Coast files and a  
2 little bit Dan Watkiss on high-level files.

3 Q So did Ron Carroll spend time on the trading  
4 floor, as well?

5 A No.

6 Q Did he interact with just the lawyers or also  
7 with the traders when he had to get involved?

8 A He interacted with the traders, as well as the  
9 lawyers. Sue Mara wasn't an attorney either, but she was  
10 their regular contact person. She worked a lot with Ron.

11 Q What was your relationship with Steve Hull when  
12 he arrived? Did you have a good relationship?

13 A I think so. He was a real nice guy. Anything  
14 in particular you want to ask about?

15 Q Did you think -- did you agree with his being  
16 hired on, the job he was going to do?

17 A I guess it made sense to me that there was sort  
18 of a hole there and our knowledge of how the tariff  
19 worked. The thing that is so hard about it is that it's  
20 such a technical area that we really needed support from  
21 somebody who had a technical background, as well as a  
22 lawyer. If they were just going to go to somebody to  
23 figure out the nuts and bolts of how the tariff worked,  
24 unless the traders just wanted to interpret it themselves,  
25 which they did.

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77:1 Q When you were kind of assigned to the trading  
2 floor, how did you go about educating yourself on the  
3 technical matters of the trading practices?

4 A I spent a week sitting down with the schedulers  
5 and traders and sitting with them for like an hour in the  
6 morning watching what they did.

7 Q Did you have certain sessions with -- where you  
8 would sit down and ask them to educate you on what they  
9 were doing?

10 A Just that one week at that point I did.

11 Q It was mainly just observing from your  
12 standpoint?

13 A It was mainly just sitting there listening to  
14 them complain. You know. They would just sit there and  
15 start bitching about well, so-and-so is doing this and it  
16 hurts me and I turn around, swirl around in my chair and  
17 say well, what are they doing, and then we would talk  
18 about it, what kind of behavior entities were engaging in.

19 Q Before you were on the trading floor, they  
20 would complain as well, but they would have to come to  
21 your office to complain, is that what happened?

22 A Right. Or what I did was I would go out, I  
23 tried to go out once a day and go around and ask each one  
24 of them is anybody in the market giving you a hard time,  
25 who is it, what are they doing. I would write it down in

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78:1 my little notebook which is also in here, in these notes  
2 that were produced.

3 Q I have heard in testimony that has been  
4 provided already that the trading floor can be kind of  
5 boisterous. They could be yelling out questions and so  
6 forth. Is that kind of how it happened?

7 A The traders were always boisterous and  
8 sometimes it was quiet. I mean there were instantaneous  
9 meetings that happened and took place where people would  
10 just turn around in their chairs and start talking and  
11 they would steal your chair. It was just, it was a very  
12 fluid kind of place.

13 Q Did they ever ask you, yell a question to you  
14 that they wanted an answer back right away, or feel like  
15 they had to have some information soon?

16 A Well, sometimes they would ask for a quick  
17 turnaround time on things and usually I would call  
18 Bracewell and ask them what they thought. I can't recall  
19 any specific examples, but I'm sure there must have been.

20 Q Did you feel like you were becoming pretty  
21 knowledgeable about the kinds of things they were engaged  
22 in, traders?

23 A Well, in general, but not California.  
24 California was just, it was, I mean there were some things  
25 about California that were a black box. I basically had

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79:1 an idea of like the time frames for when congestion was  
2 calculated and some of the scheduling problems they had  
3 and there were just some general kind of high-level areas  
4 like that that I felt I had some knowledge about. But I  
5 really didn't understand at that time how they did  
6 congestion management or, you know, when the traders would  
7 come to me with these issues they had, I would have to  
8 really just start from square one and write down  
9 everything they said and go back to them with questions,  
10 because I didn't understand it that much. Didn't know  
11 much about it.

12 Q These were issues they would bring to you to  
13 bring before FERC somehow?

14 A Right. Like in my notes.

15 Q When you were observing what they were doing on  
16 the floor, did you ever have any questions as to whether  
17 it was legal or ethical?

18 A I mean, I had lots of questions about whether  
19 what they were doing was legal or ethical. All the time.

20 Q What kinds of questions did you have?

21 A I can't remember any specific examples.

22 Q Did you have any questions about particular  
23 traders?

24 A No. I didn't. I really didn't have any  
25 questions.

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80:1 Q Any particular desk?

2 A No. I can't think of anybody in particular.

3 They were basically good people. I mean I think they were  
4 trying to make a living and some of them were pushing the  
5 edges of the envelope in terms of what was creative ideas,  
6 because some of them were extremely creative, but I can't  
7 get a picture in my mind of anybody that I thought was a  
8 bad actor.

9 Q Would they come to you and ask you do you think  
10 this is right for us to do or anything like that?

11 A No, they wouldn't.

12 Q Did you have the impression that they didn't  
13 have much oversight in terms of the kinds --

14 A Compliance, in retrospect, they had no  
15 compliance. There might have been one or two things they  
16 came to me and asked me about, whether it was right or  
17 not. And my boss had an expression, that if I had any  
18 question about whether they could do anything or not, this  
19 is Joe, that I wasn't supposed to decide that, I was  
20 supposed to take it to him.

21 Basically he told me that I wasn't supposed to  
22 tell them no. That whenever I felt like I was going to  
23 have to tell them no, I had to go talk to Joe, because he  
24 didn't want Tim Beldon calling up and yelling at him about  
25 something. He wanted to go and talk to Tim about it and

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81:1 tell him why he couldn't do it.

2 Q You understood from that that Tim Beldon just  
3 didn't want to have the traders restrained in some way by  
4 lawyers?

5 A No, it's not that. It was more the idea of we  
6 were supposed to try to figure out how to be able to make  
7 things legal, how to do things legally, how to facilitate  
8 trades, rather than telling people they couldn't do  
9 something. Because that was, then we were like all the  
10 people who were in the market who were trying to keep us  
11 from competing. We were supposed to be creative and try  
12 to figure out ways for trades to happen.

13 Q So if they came up with a particular trading  
14 strategy that was successful, you felt it was your job to  
15 try to figure, try to understand how that could be legally  
16 justifiable or ethically justifiable?

17 A I guess, you know, there may have been a couple  
18 of occasions where we tried to do that, but I can't recall  
19 any specific examples. I think the one that came up that  
20 I can remember is the buying shaped transmission service.  
21 You know, I was telling you before about the transmission  
22 service that I helped the traders get. Bonneville Power  
23 Administration sold themselves what was called shaped  
24 transmission service and we filed the complaint about it  
25 because they gave it to themselves. And so we wanted to

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82:1 know, the traders wanted to know if they could get shaped  
2 transmission service, and the question was whether that  
3 violated the tariff or not.

4       And ultimately the Commission made decisions  
5 about whether it violated the tariff or not. And I do  
6 recall specifically advising on that, saying that it  
7 wasn't in the pro forma tariff, but under Bonneville  
8 tariff, Bonneville tariff was different than the pro forma  
9 tariff and it looked like it provided for shaped  
10 transmission service.

11       Q Did you ever have any discussions with Joe  
12 Hartsoe or even Jim Steffes as to questions you had with  
13 regard to what traders were doing?

14       MR. REED: About what?

15       MR. COLLINS: About anything.

16       THE WITNESS: I can't recall any specific  
17 examples other than the shaped transmission one.

18       BY MR. COLLINS:

19       Q The shaped transmission one was something that  
20 Bonneville was doing and the traders were asking if it  
21 would be okay if they did it?

22       A They want it, too, they wanted shaped  
23 transmission service.

24       Q What was the outcome of that?

25       A We got shaped transmission service.

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83:1 Q And the Commission made a ruling?

2 A Yes.

3 BY MR. ROSENBERG:

4 Q By "the Commission," you mean FERC?

5 A Yes, FERC.

6 Q Not to keep us in the dark, no pun intended,  
7 what is shaped transmission service?

8 A Shaped transmission service, under the FERC  
9 tariff you would either buy transmission service for a  
10 term of either an annual term or a monthly term or a daily  
11 term. There might even have been weekly. But it was  
12 under the pro forma tariff. The FERC's pro forma tariff,  
13 if you bought it for a year, you bought 200 megawatts for  
14 an entire year. If you bought it at daily service, you  
15 buy, whatever it was, the amount that you bought, it was  
16 for the entire period of the transaction.

17 Whereas Bonneville had sold itself an annual  
18 transmission service that had 1200 megawatts in the  
19 summertime, in the peak months, and 200 megawatts or  
20 whatever during the shoulder -- during the bottom months  
21 and 400 megawatts during the shoulder months. So it was  
22 shaped to when they wanted to buy the transmission  
23 service.

24 Q And that gave them a competitive advantage?

25 A Gave them competitive advantage.

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- 84:1 Q And the traders wanted to have the same  
2 ability?
- 3 A They wanted the same ability, yes, they did.
- 4 BY MR. COLLINS:
- 5 Q I think you indicated that you never observed  
6 any activities from the traders that you would call  
7 questionable in the sense that you would go to Joe Hartsoe  
8 or Jim Steffes and ask them whether this is correct or  
9 not?
- 10 A You know, like I said, there were probably one  
11 or two occasions, and because Joe told me not to say no, I  
12 would take it to him and he would resolve it. I can't  
13 think of specific examples other than the shaped  
14 transmission service.
- 15 Q Basically you would take it to him and then he  
16 would go?
- 17 A He would go talk to Tim about it.
- 18 Q And they would resolve it between the two of  
19 them?
- 20 A Right.
- 21 Q Did you have a lot of dealings with Tim Beldon?
- 22 A Yes.
- 23 Q What kind of a person did you find him to be?
- 24 A In terms of his --
- 25 Q In terms of his managerial abilities?
-

- 85:1 A I guess he did a good job. He seemed to have a  
2 good handle on everything that was going on on the floor.
- 3 Q Would the other traders go to him for guidance?
- 4 A I think they would be required to, if it was an  
5 important decision.
- 6 Q Was there a lot of innovation on the floor as  
7 well from traders in terms of trying to develop successful  
8 strategies and practices?
- 9 A Yes. Lots of innovation.
- 10 Q And how was that coordinated among the traders,  
11 if at all?
- 12 A I don't know.
- 13 Q Would Tim Beldon have any meetings in which you  
14 would discuss?
- 15 A He had a weekly meeting.
- 16 Q The traders would all show up to that meeting?
- 17 A I think a lot of them showed up for it, unless  
18 they had obligations they had to stay on the floor for.
- 19 Q Were you at those meetings, as well?
- 20 A Never.
- 21 Q Did you want to be at those meetings?
- 22 A Yes, I did.
- 23 Q Why couldn't you be?
- 24 A Because I was never invited.
- 25 MR. ROSENBERG: It was by invitation only?
-

86:1 THE WITNESS: Yes, it was. Tim also had a  
2 regular meeting with the fundamentals group where the  
3 fundamentals group would tell people from the trading  
4 floor what the fundamentals looked like that were coming  
5 up, and I wasn't invited to those meetings either.

6 BY MR. COLLINS:

7 Q Did you ask to go to any of those meetings?

8 A Yes, I did.

9 Q What were you told?

10 A That I wasn't invited.

11 Q What was your understanding as to why you  
12 weren't invited?

13 A I think that Tim -- I don't really know why. I  
14 would like to know why, but I don't know why.

15 BY MR. BRUNO:

16 Q Did Mr. Hull attend any of those meetings?

17 A I don't know whether he did or not. I don't  
18 know whether they were still held after he started working  
19 there.

20 Q What about Mr. Yoder, did he attend those?

21 A I don't know. There was an origination  
22 meeting, that was a weekly origination meeting that I was  
23 invited to for a while, and then I was disinvited to for a  
24 while, and then I was invited to again and that was a  
25 teleconference call with Houston. But that was about all

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87:1 the origination projects.

2 BY MR. COLLINS:

3 Q Why were you disinvited for a while?

4 A There was a change of leadership and there was  
5 a change in leadership in our group, as well as the  
6 origination group, and I never really heard. I was just  
7 told that I didn't need to go and then was told again that  
8 I did need to go. Some of these decisions were made down  
9 in Houston and I would just be told them and I would say  
10 okay.

11 Q In terms of the trading practices strategies,  
12 if you will, did you feel like there was adequate  
13 oversight?

14 A It wasn't really my area to decide whether  
15 there was adequate oversight.

16 Q You didn't have an opinion about that?

17 A I didn't have an opinion about it.

18 Q Okay.

19 BY MR. ROSENBERG:

20 Q Following that same line, you told us just a  
21 few minutes ago that you thought the traders were trying  
22 to push the envelope on some issues?

23 A Yes.

24 Q You used words such as "creative." You stated  
25 that the protocol was for you not to tell people not to do

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88:1 things, but rather to send the problem up to Joe?

2 A Right.

3 Q Based on that and the fact that you weren't  
4 invited to trading meetings, did you come to any  
5 conclusions as to what the reasons were why you were not  
6 asked to come to these meetings?

7 A If you are alluding to whether or not there was  
8 any sort of nefarious planning or discussion going on, I  
9 don't think that was the reason I wasn't invited. I think  
10 the reason that I wasn't invited was that Tim didn't  
11 really think that highly of my ability to consult with  
12 them on complicated economics and engineering issues. He  
13 thought I was more of a lawyer sort.

14 Q Because we don't want the lawyers to tell us  
15 about their strategy?

16 A I don't think so. I think it was more he  
17 thought it would be a waste of my time and that he didn't  
18 want to hear anything about what was happening at FERC at  
19 those meetings. He wanted to just talk about trading.

20 Q And did he want to know what was happening with  
21 the Cal ISO?

22 A He always wanted to know what was going on with  
23 the Cal ISO tariff.

24 Q Who filled that gap?

25 A Mostly Sara -- I'm sorry, Sue Mara. I tried

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89:1 to, though. After, I would say that September, October  
2 time frame, I started getting more involved whenever there  
3 was a filing, trying to advise him about it, telling him  
4 that it was coming and see any problems that he had with  
5 it.

6 Q So as an experienced lawyer who apparently on  
7 some issues was the last lawyer to see them before they  
8 went to outside counsel to be filed, you didn't think  
9 there was any disconnect between you not being able to  
10 attend meetings?

11 A I wasn't a compliance lawyer. I was a  
12 regulatory lawyer, a FERC regulatory lawyer. I wasn't  
13 even a transactional lawyer.

14 Q So while you thought --

15 A I was on the trading floor so I could learn  
16 about trading to help me do my job better which was to  
17 make protests and file complaints at FERC. My job was not  
18 to ensure compliance or to even advise on transactions.

19 Q Or to offer an opinion unless it was requested?

20 A That's right.

21 Q And -- but when that type of issue came up, you  
22 would direct it to Joe --

23 A That's right.

24 Q -- Hartsoe? And he would address it, to your  
25 best knowledge, with Tim Beldon directly?

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90:1 A Right.  
2 MR. REED: Did you say Joe Hartsoe?  
3 THE WITNESS: Yes.  
4 MR. ROSENBERG: Okay.  
5 BY MR. BRUNO:  
6 Q Just so I understand, I think you described  
7 three weekly meetings going on; is that right?  
8 A Yes.  
9 Q One was a trader meeting?  
10 A Trader meeting and fundamentals meeting. What  
11 was the third one?  
12 Q Origination?  
13 A Oh, yes, origination, yes.  
14 Q Were there any other meetings you can recall?  
15 A No.  
16 Q And the trader's meeting would have been at a  
17 different day than the fundamental meeting?  
18 A The traders meeting would have been, yes,  
19 definitely. Now there was actually one other meeting.  
20 This was toward the end, and I attended a couple of these.  
21 I attended, I don't know, maybe a half dozen of them  
22 total, where Christian and Tim and I would meet in  
23 Christian's office to talk about the various transactions  
24 and it was actually Christian was supposed to talk about  
25 the transactions and I was supposed to talk about what was

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91:1 going on with FERC matters. It was all just to sort of  
2 try to coordinate among the three of us. I ended up not  
3 being able to go most of the time, they would meet anyway.  
4 Q You had conflicting things on your time?  
5 A Yes, I was out of the office a lot.  
6 Q What days do you recall that these trader  
7 meetings --  
8 A The origination meeting was on Monday morning.  
9 At 7:30 in the morning. And it was via video conference  
10 with Houston and I don't know when the other meetings  
11 happened.  
12 Q Do you know where they occurred?  
13 A There was a conference room.  
14 Q Is that the conference room you indicated on  
15 here?  
16 A No, actually it goes off the page. There are  
17 two conference rooms. There is one over here on the other  
18 side of the cave and then there was a larger conference  
19 room over here.  
20 Q Just opposite that?  
21 A Right. The video conference room was the  
22 smaller one next to the cave.  
23 Q So these conference rooms are off the trading  
24 floor; correct?  
25 A They were right at the end of the trader floor.

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92:1 MR. ROSENBERG: Let the record reflect none --  
2 neither of those conference rooms are on Exhibit 4, but  
3 they have been made reference to locations which are on  
4 Exhibit 4.

5 THE WITNESS: Right.

6 BY MR. BRUNO:

7 Q I understood you to say in response to  
8 Mr. Collins's questions that you had I think lots of  
9 questions about whether it was legal or ethical and I  
10 believe the question there was with regard to trading or  
11 trading activities. Is that a fair characterization of  
12 what you said?

13 A Like I said, the traders were always coming up  
14 with ideas and you would hear them say this stuff and say  
15 gosh, how does that work and is that okay and I don't know  
16 and, you know.

17 Q Did you ever express those concerns to anybody  
18 that you remember?

19 A Like I said, whenever I was asked if they could  
20 do something, my job was not to say no. If I didn't think  
21 that it was legal, I passed it on to Joe.

22 Q Okay. And do you remember having this  
23 conversation with Joe over the period of time that you  
24 were on the trading floor?

25 A Like I said, the shaped transmission one is

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93:1 about the only one that comes to mind. I don't recall  
2 ever having a conversation with Joe about whether what was  
3 going on in California was legal, any transactions in  
4 California, because mostly the traders didn't ask me my  
5 opinion about what they were doing in California. I feel  
6 like I may have written an e-mail or two on what happened  
7 at those meetings, where the traders talked about the  
8 trading strategies, I may have. Because just when they  
9 happened, I wanted to know whether they violated the  
10 tariff, and I didn't feel like I understood them well  
11 enough to know whether they violated the tariff.

12 MR. REED: What meeting are you talking about?

13 THE WITNESS: The October 3 and 4 meeting, I  
14 guess that was the time frame I was trying to remember.

15 BY MR. BRUNO:

16 Q Is that the year 2000?

17 A Yes, the year 2000.

18 Q Those are the meetings?

19 A Where the traders presented the trading

20 strategies that have been talked about so much.

21 MR. BRUNO: This would be a good time to break  
22 for lunch.

23 (Whereupon, at 1:05 p.m., the deposition was  
24 recessed, to be reconvened at 2:15 p.m. this same day.)

25 AFTERNOON SESSION (2:15 p.m.)

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94:1 Whereupon,  
2 MARY C. HAIN  
3 having been previously duly sworn, was examined and  
4 testified further as follows:  
5 (Hain Exhibit 10 identified.)  
6 EXAMINATION (Continued)  
7 BY MR. BRUNO:  
8 Q Next in order is Exhibit 10. It's an e-mail  
9 from Mark Haedicke to Mark Taylor, Jeffrey Hodge,  
10 Elizabeth Sager, S-a-g-e-r, and apparently was dated  
11 December 18, 2000. Attached to it is a document, a  
12 discussion of trading strategies. Do you see this  
13 document?  
14 A Yes, I do.  
15 Q The first page of the document which is Bates  
16 stamped EC 00794566 looks like it's an e-mail; is that  
17 correct?  
18 A And that is what it looks like.  
19 Q Okay. Are you familiar with this document?  
20 A I have never seen it before in my life.  
21 Q Can you tell us -- well, first, can you  
22 identify Mr. Haedicke, please?  
23 A I think he was head of the Enron North America  
24 legal department.  
25 Q In December of 2000?

---

95:1 A Yes, I think so.  
2 Q He would have been at the time you left in  
3 April?  
4 A I think so.  
5 Q And Mr. Taylor, did you ever meet Mr. Taylor?  
6 A His name sounds familiar. I might have met  
7 him, we used to have regular Enron continuing legal  
8 education, I might have met him at one of those.  
9 Q How often would you have this continuing legal  
10 education?  
11 A I think they were twice a year.  
12 MR. ROSENBERG: You actually get credits?  
13 THE WITNESS: Yes, we had almost 200 lawyers.  
14 We all needed CLEs.  
15 BY MR. BRUNO:  
16 Q And Mr. Jeffrey Hodge, have you ever met him?  
17 A I don't think so. Although I heard his name a  
18 number of times. I might have met him at CLEs.  
19 Q And Elizabeth Sager?  
20 A Yes, I met her at a WSPP meeting, Western  
21 System Power Pool meeting.  
22 Q Do you remember when that would have occurred?  
23 A Maybe in the summer of 2000 or so. I think I  
24 only saw her that one time, but I think Christian reported  
25 to her.

---

96:1 Q Do you know her title?  
2 A No, I don't.  
3 Q Turning to the second page, where it begins  
4 with the title discussion of hypothetical trading  
5 strategies and has 1, 2 and 3. Beginning with the first  
6 one, could you just acquaint yourself with that. And tell  
7 me when you are done.  
8 A Okay, I have read it.  
9 Q First of all, have you ever read such a  
10 description before?  
11 A No.  
12 Q Do you recognize the description as anything  
13 that you may have seen or heard about at Enron?  
14 A No.  
15 Q Is there anything else about that description  
16 that triggers any kind of memory or recollection about  
17 issues that you may have heard or discussed or come in  
18 contact with at Enron?  
19 A The only thing I know about CFTC regulation was  
20 that Haedicke was primarily concerned about making sure  
21 that we complied with it and it was his area. And I don't  
22 know anything about CFTC regulations.  
23 Q Could you take a moment and just read the  
24 second one, entitled transmission congestion rights.  
25 A Okay.

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97:1 Q Does the second one which is entitled  
2 "transmission congestion rights" -- it appears to deal  
3 with trading power; correct, is that right?  
4 A Yes. It does.  
5 Q It also refers to pool rules regarding  
6 congestion, state rules and FERC regulations; correct?  
7 A Yes.  
8 Q Does this trigger any memories or recollections  
9 about having ever been consulted or heard about such a  
10 transaction?  
11 A No.  
12 Q We may come back to that. The third one, if  
13 you wouldn't mind reading that one, please.  
14 A It looks like some kind of a test. Like the  
15 trading bar exam.  
16 MR. REED: It's not the SATs.  
17 THE WITNESS: Okay. I guess I'm ready.  
18 BY MR. BRUNO:  
19 Q Having read this, does this cause you to recall  
20 any kind of conversation or any kind of recollection of  
21 Enron ever doing a similar transaction?  
22 A No, I don't recall.  
23 BY MR. ROSENBERG:  
24 Q Have you ever seen any similar materials at any  
25 of these CLE gatherings?

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98:1 A I might have.

2 Q Well, ask another question. Did the CLE stuff  
3 try to orient itself to issues in power?

4 A Yes, and they may have done a training session  
5 on CFTC, but I don't recall. They tried to do sort of  
6 issues of concern to energy traders or energy attorneys.

7 Q Did Houston do its own and Portland lawyers do  
8 their own?

9 A No, Houston did it for all.

10 BY MR. BRUNO:

11 Q Were written materials produced?

12 A Yes.

13 Q Do you have copies of any of those materials?

14 A I don't think so. I only keep them for as long  
15 as I have to, and I asked my assistant to find out how  
16 long I needed to keep them when I was with Enron and I  
17 threw out whatever I didn't still need. So I have  
18 whatever is left over, which I think is a bunch of Federal  
19 Energy Bar stuff. I don't know if I still have any Enron  
20 stuff.

21 Q Would you mind after consulting with counsel,  
22 to kind of review and see if you have any of those  
23 materials and report to us if you did, as to what that  
24 might be?

25 A Okay.

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99:1 MR. REED: Any materials that she obtained at  
2 the Enron CLE events.  
3 MR. BRUNO: Any material she still retained  
4 from her employment at Enron that relates to either CLE,  
5 trading, trading strategies or --  
6 THE WITNESS: About this.  
7 BY MR. BRUNO:  
8 Q It could be broader than this. Any subject  
9 matter of the testimony here today, what we are looking  
10 at. That might be relevant to provide additional insight,  
11 that would be helpful to us.  
12 It refers here to the pool or the pool rules.  
13 Do you know what the reference might be here?  
14 A The pool rules was probably like the ISO rules.  
15 That would be the context where I was anyway.  
16 Q Do you know if the CLE classes were videotaped?  
17 A I don't know.  
18 MR. ROSENBERG: Were these done live or --  
19 THE WITNESS: They were done live. That is the  
20 way I saw them.  
21 BY MR. BRUNO:  
22 Q Do you remember who usually conducted them?  
23 A There were a number of different people who  
24 were asked in to give presentations. Sometimes it was --  
25 the ones that were the most memorable to me were sometimes

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100:1 they asked business people to come in and talk about the  
2 business deals that they had done and sort of the lessons  
3 learned about the legal hoops they had to jump through.

4 Q Would regulatory people make presentations at  
5 any of these CLE type things?

6 A Yes. Shelley Corman made a presentation at one  
7 of them that I recall. She was in the gas pipeline side.

8 Q Is that C-o-r-m-a-n?

9 A Yes.

10 Q Anybody else you remember?

11 A Not off the top of my head.

12 Q Were these day-long events or several-day  
13 events?

14 A Usually it was just for the morning, I think.

15 BY MR. ROSENBERG:

16 Q Is there an ethics component to CLE training?

17 A Sometimes. I believe there was an ethics  
18 component offered.

19 Q Do you have any recollection of what was  
20 discussed at that one?

21 A No, I don't.

22 BY MR. BRUNO:

23 Q Besides the outside people that you referenced  
24 that had come in to do training, was some of the training  
25 produced internally? For example, would Mr. Haedicke's

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101:1 legal department produce presentations?

2 A Yes. I think.

3 BY MR. ROSENBERG:

4 Q Were you ever asked to do a presentation? How  
5 about Mr. Hull, did he ever give a presentation?

6 A I don't think so.

7 Q Mr. Yoder?

8 A No.

9 Q When we left before the lunch break, you  
10 explained to us issues surrounding trading on the floor  
11 which raised some concerns in your mind, and how you were  
12 told to deal with them. Having had the lunch break to  
13 think about it, do you recall having raised any issues  
14 with your supervisor?

15 A I can't remember any other issues than the one  
16 I mentioned about shaped transmission. The only thing  
17 that occurred to me was I also remembered that Joe liked  
18 to use outside counsel to run issues by. That when there  
19 was -- when somebody raised a concern about whether we  
20 were able to do something or not, or perhaps maybe I  
21 raised the question about whether we were able to do  
22 something or not, Joe would have outside counsel scrub it  
23 because he wanted to make sure that, if the decision was  
24 made wrong, that their malpractice insurance was on the  
25 line for it. I know that sounds kind of cynical but it's

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102:1 pretty good business risk aversion as far as I'm  
2 concerned.

3 BY MR. BRUNO:

4 Q Do you remember particular issues?

5 A I can't think of any besides that shaped  
6 transmission one. And I don't want to give you the  
7 impression that stuff was just floating around in the air  
8 and it was palpable with it. It's just that these were  
9 very creative people and rather than sit there and think  
10 about how they couldn't do business, they would try to  
11 create ways to be able to do business.

12 And a lot of times it's scratch your head and  
13 say how did they come up with that idea. Isn't that  
14 interesting. But it didn't mean that I thought they were  
15 always trying to do something that was illegal or that  
16 they were bad people.

17 BY MR. ROSENBERG:

18 Q You just thought it was something extraordinary  
19 and they are thinking out of the box?

20 A They were thinking outside of the nine dots all  
21 the time.

22 BY MR. ROSENBERG:

23 Q But focusing on something that raised legal and  
24 ethical concerns, I'm not sure if those were your words or  
25 our words, but was there anything as you sit here today

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103:1 that raised concern with you as a lawyer or raised concern  
2 about gaining provisions on the floor under the California  
3 ISO?

4 A The only time that I had the questions was the  
5 time when we had the meeting in October, and at that time  
6 I wanted to know whether or not anything that was done  
7 violated the tariff.

8 BY MR. ROSENBERG:

9 Q So why don't we get to the October 3 meeting.

10 MR. BRUNO: Do you have a copy of that? That  
11 would be helpful. Of the October memo. December, I'm  
12 sorry.

13 BY MR. ROSENBERG:

14 Q We can go through the circumstances of the  
15 October meeting and then go to the memo specifically, but  
16 if you need the memo to refresh your recollection about  
17 events. Tell us as you sit here today about the genesis  
18 of the October 3 meeting.

19 A Okay. We received data requests from the  
20 California Public Utilities Commission, and I think they  
21 came to us electronically. I was on an e-mail exploder,  
22 so I received a lot of things from the California ISO, and  
23 I think that is the way we received it, was just over the  
24 exploder. It may have been a more circumscribed "to"  
25 list, but I can't remember whether it was or not.

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104:1           And the first thing that happened was I  
2 remember having a meeting in Christian Yoder's office  
3 with, I think it was just Christian and Steve Hull and  
4 Chris Calger and Tim Beldon. And the only thing that I  
5 remember about that meeting, and I don't think I took any  
6 notes on it, although if I have them in my notes I can't  
7 figure out which ones they are, I like to think of it as  
8 the death and dying meeting because it was like how you  
9 deal with death and dying. All the steps that you go  
10 through, that is what the traders were going through. The  
11 shock, denial, anger and then finally acceptance when you  
12 get to the end.  
13           That is what that meeting was all about.  
14 Everybody was grouching and complaining, and the attorneys  
15 were saying we have to cooperate. We have to figure out  
16 what we have to do. We have to get all the information  
17 together.  
18           And Steve and I actually had had a couple of  
19 sort of preliminary discussions, I think, before that  
20 meeting that were sort of what his firm could do for us,  
21 how they had been involved in similar discoveries in the  
22 past and how they could come up with a survey of questions  
23 to ask everybody on the trading floor to respond to the  
24 questions. I can't remember what else he sort of offered  
25 to do in this. Anyway, then we had the death and dying

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105:1 meeting.

2 Q The meeting you just referred to predated the  
3 October 3 meeting?

4 A Yes.

5 Q And followed the e-mail that notified you --

6 A From the CPUC; right.

7 Q California Public Utilities Commission?

8 A California Public Utilities Commission. Then  
9 after the death and dying meeting, there was -- my  
10 recollection was that Tim took a number of us into the  
11 large conference room and talked to us for like an  
12 afternoon to try to explain to us what the trading  
13 strategies were, because we had, as I recall it, in the  
14 meeting with Christian, said or in the meeting in  
15 Christian Yoder's office that not only did we need to have  
16 a strategy for responding to the data requests, but we  
17 also needed to know what our litigation risk was and what  
18 our regulatory risk was.

19 And so -- and we also needed to quantify, to  
20 try to quantify the numerical amount of that litigation  
21 risk and regulatory risk. So at that first meeting with  
22 Tim -- or I guess it would have been on the 3rd, I can't  
23 remember the date.

24 Q Are we still talking about the second meeting  
25 which preceded the October 34 meeting?

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106:1 A There was the sort of informal discussions with  
2 Steve, there was the death and dying meeting and then the  
3 meeting with Tim. And it was --  
4 Q And all these preceded the October 3 meeting?  
5 A Yes. They did.  
6 Q Okay. What happened at this third meeting  
7 preceding the October 3 meeting?  
8 A Can I just see the exhibits?  
9 Q Yes.  
10 BY MR. BRUNO:  
11 Q That would be Exhibit 5.  
12 A Page MH 0001. Yes. I think that this was the  
13 day before the 10/3 meeting, and at that point.  
14 MR. REED: Which meeting do these pages that  
15 you are referring to relate to?  
16 THE WITNESS: Pages 1 through 9. No. Not  
17 pages 1 through 9, pages 1 through 4.  
18 MR. REED: And those relate to which meeting?  
19 THE WITNESS: The meeting on the 2nd with Tim,  
20 and I think Christian was there and I think Steve. I  
21 don't know whether Steve was there or not. Not very many  
22 of the other traders were there. It was just Tim, as I  
23 recall.  
24 And Tim didn't have the full story about all of  
25 the trading strategies. He didn't understand them

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107:1 completely, and so there were gaps in his presentation at  
2 that point. He was just trying to tell us what he knew  
3 about them. And so what I did on that day was write down  
4 everything that he said, frantically trying to keep up,  
5 including with his drawings.

6 I get the sense that that was sort of like his  
7 trying to develop a little bit more what he wanted to say  
8 to Richard Sanders and others when they came up, just to  
9 try to figure out what he didn't know that he needed to  
10 get from everybody else, to start to piece together what  
11 information everybody needed to know about the trading  
12 strategies to understand them.

13 BY MR. ROSENBERG:

14 Q Why were you brought into this meeting?

15 A That is a good question. After I had been left  
16 out of all of the strategy meetings and whatnot and didn't  
17 really know that much about trading, and suddenly I was  
18 being asked to be involved in it. But I think at that  
19 point Tim was just trying to get together any legal help  
20 that he could get. So he asked me to come in, and I did.

21 Q Did you express any, like you said, express any  
22 resistance to now coming in at this point, being asked to  
23 participate when the issues had surfaced in a pejorative  
24 kind of way?

25 A No, not really. I was thirsty for trying to

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108:1 understand the California market and I wanted to  
2 understand it and I wanted to help them. They were my  
3 clients and I was just trying to serve them.  
4 Q Okay. So let's take that document, 0001, and  
5 the first line talks about congestion revenue; correct?  
6 A Yes.  
7 Q What did you understand that to mean?  
8 A I don't know what that means.  
9 Q Is this how the meeting started, with a  
10 discussion of congestion revenue?  
11 A I think it started down here with "Tim,  
12 governor appointed, what are you at risk for." And I just  
13 happened to jot down some notes up there at the top.  
14 Q So they may not be chronological?  
15 A I don't think so.  
16 Q Tell us what you understand, what was the  
17 governor appointed issue?  
18 A I think that was about the attorney general,  
19 the fact that we also -- I wanted to know because I had  
20 heard there was an attorney general investigation going  
21 on, but I hadn't really been told about it by Richard  
22 Sanders. So I had mentioned that on my notes, just  
23 because I think he affirmed for me that there was an AG  
24 investigation going on.  
25 Q That the AG was a government appointee in

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109:1 California?

2 A Yes.

3 Q Then your next line talks about what are you at  
4 risk for.

5 A Right.

6 Q Is that the legal and regulatory risk?

7 A Right. Exactly. I had a feeling that there  
8 was a lot of money at risk in California concerning the  
9 generators in the market. They had exercised market power  
10 or Powerex and that there was a lot of money involved and  
11 I wanted to verify that what Tim was talking about being  
12 at risk for was rather low dollars, because we didn't  
13 know, and again, didn't own any generation in California  
14 and the traders were always saying we were price takers in  
15 California. And he affirmed that for me in these notes.

16 Q That caused some relief?

17 A Yes, it definitely did.

18 Q Then your next topic seems to relate to a  
19 reliability problem. What is that?

20 A I don't know.

21 Q "But don't think we affected prices."

22 A I have looked over my notes concerning these  
23 trading strategies and I did not at the time that I took  
24 these notes have a full understanding of what was  
25 happening, and I did not go back afterward and try to

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110:1 ascertain how each one of these transactions worked,  
2 because I wasn't tasked with that. And so I can go  
3 through here and I can tell you what my shorthand means,  
4 what my abbreviations stand for, but in terms of trying to  
5 piece it together, I haven't read the memos, I'm not  
6 trying -- I don't understand the trading strategies, and  
7 so I don't know if I can really add a lot more to it than  
8 what it says on the page.

9 Q Well, there are things on the page which don't  
10 relate necessarily directly to trading strategy.

11 A And I can tell you all about those.

12 Q And they relate, if I'm correct, and correct me  
13 if I'm wrong, to -- show you to respond to the request  
14 from the CPUC?

15 A Right. I can tell you a lot about those.

16 Q We can take it line by line. "Mock prosecution  
17 on AG investigation," what was contemplated there?

18 A I don't know, sounds like -- I think we might  
19 have been talking about -- Tim might have been talking  
20 about how Richard Sanders had prepared him for the Silver  
21 Peak investigation by Powerex and that he wanted to do  
22 that kind of thing again.

23 Q Powerex game, just go down the line.

24 A I don't know what target price is, but I know  
25 that somebody at one point or another had said Powerex in

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111:1 Canada had gained the market.  
2 Q So the next several lines discuss market issues  
3 relating to Powerex?  
4 A I guess so. I can tell you what NOB means.  
5 Q At this point so can I.  
6 A Okay.  
7 Q Moving to the bottom, the last four lines  
8 there, "underscheduling load," what did that mean to you?  
9 A Well, it was my understanding that the  
10 California utilities were all underscheduled no load. I  
11 think that is what that stands for.  
12 Q And the next sentence is "we," who does the  
13 "we" refer to?  
14 A I think that was EES, because we didn't, EPMI  
15 didn't have any load.  
16 Q And it talks about overscheduling and getting  
17 paid an imbalance. "We buy the day-ahead and sell in the  
18 ex post market." I think that is what it says.  
19 A Right.  
20 Q Was that the discussion of strategy?  
21 A That was the discussion of the strategy. That  
22 is what I think almost everything in here is, is Tim's  
23 talking about the trading strategies that they were  
24 engaged in.  
25 Q "When we overschedule," did that raise any red

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112:1 flags in your mind about what the significance of  
2 overscheduling was, in terms of --

3 A That is why I wanted somebody to analyze  
4 whether we violated the tariff. Because it was my  
5 understanding that the California utilities were  
6 underscheduling their load all the time and so apparently,  
7 and this was a relatively well-known fact, so maybe they  
8 were violating the tariff, maybe we were violating the  
9 tariff. I don't know.

10 Q Did you ever hear the expression in this case  
11 "two wrongs make a right" in connection with this, used by  
12 anybody?

13 A I hadn't heard that expression in connection  
14 with this, no.

15 Q In terms of overscheduling, you had a sense  
16 that it violated the California tariff or you knew?

17 A I didn't say that. I wanted to know whether it  
18 did or not.

19 Q Did you ever conclude anything about it?

20 A I was never asked to do that. I wanted it to  
21 be done and I believe that that is what Steve Hull was  
22 supposed to be doing.

23 Q Okay. From the materials that you have seen  
24 since, do you think that question was ever answered to  
25 your satisfaction?





113:1     A    I haven't seen any materials since about it. I  
2   believe that I was forwarded a copy of the memo that Steve  
3   Hull wrote and I may have read it at the time quickly. I  
4   don't think I did, but I don't remember what it said and I  
5   don't remember how the trading strategies worked. I  
6   wasn't asked to give my legal opinion at that time about  
7   whether they were illegal or not. And essentially the  
8   discussion about the memo was happening at a much higher  
9   level in the company, including, as I understood it, Jim  
10  Steffes, Richard Shapiro, Richard Sanders, and outside  
11  counsel and Haedicke and I don't know who else.

12     Q    Well, there was a discussion taking place at  
13  that level, but there was a discussion taking place, as  
14  your notes reflect, at this level?

15     A    Right. There was.

16     Q    I guess what we are asking is to try to find  
17  out how much was resolved at this level and how much was  
18  passed on.

19     A    Right.

20     Q    So it's your testimony today that while you saw  
21  a possible issue in overscheduling, it was never resolved,  
22  no discussion -- no one opined on its legality at that  
23  meeting and since then no one has undertaken, to your  
24  knowledge, any effort to learn the answer to that  
25  question?

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114:1 A I don't know whether anybody undertook to  
2 answer that question.

3 Q At least that you know about?

4 A I had thought that what Steve Hull was going to  
5 be doing as a result of what we heard at this meeting was  
6 analyzing whether any aspects of these trading strategies  
7 violated the tariff.

8 Q But you did see the overscheduling notice, at  
9 least raising a question?

10 A I wanted to know whether this and other things  
11 that Tim mentioned violated the tariff.

12 Q Well, in a general sense if the schedule was  
13 submitted with information that was not accurate, wasn't  
14 false information being given to the ISO, forgetting  
15 whether it had any consequence or not.

16 A Uh-huh.

17 Q In your view as a regulatory --

18 A Was false information being submitted to the  
19 ISO? Yes. Seems like you could say that false  
20 information was being submitted to the ISO.

21 Q I appreciate that you weren't asked to give a  
22 legal opinion nor did you give a legal opinion?

23 A Right. Nor was I asked beforehand whether this  
24 was okay for them to do. I was told about it after the  
25 fact.

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115:1 Q Was there any discussion along the lines of  
2 what overscheduling, misrepresenting a set of facts to the  
3 ISO meant legally, without coming to a conclusion, was it  
4 discussed at this October 2 meeting?

5 A Those mostly all we were doing is trying to  
6 understand everything that Tim was saying. Because he was  
7 just sending out an awful lot of information and it was  
8 very difficult to understand and it was our view that he  
9 didn't have the complete picture at that time. It's my  
10 understanding that he didn't, because he brought people in  
11 to explain things more in detail. So it was my assumption  
12 in talking to him that he may not have even had the facts  
13 straight at this initial meeting.

14 MR. BRUNO: Did you just say at the initial  
15 meeting people came in and helped explain some of these  
16 things?

17 THE WITNESS: No, I think on the 3rd he had  
18 people come in and explain it. I think he tried to do  
19 this all by himself the first time and I think it was on  
20 the second.

21 BY MR. BRUNO:

22 Q Just one clarifying question. With regard to  
23 Silver Peak, something described earlier, was the Silver  
24 Peak matter the one that concerned the allegation by the  
25 PX that Enron had massively overscheduled at that

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116:1 particular point?

2 A Yes, that is what it was.

3 Q And then subsequently there was a settlement  
4 with the PX?

5 A There was.

6 Q Thank you.

7 BY MR. ROSENBERG:

8 Q All right. Then the final line on what we can  
9 read is if I read it correctly, it's your handwriting,  
10 "there will be inc-ing every day"?

11 A "There is no teeth in it."

12 Q "There is no teeth in it." Do you know what  
13 that refers to?

14 A I assume they mean -- it means there is no  
15 penalty for doing whatever it is that they were going to.  
16 Inc-ing, I know what inc-ing means, but you probably know  
17 what inc-ing means, too. Inc-ing means making offers to  
18 provide increased generation.

19 Q I'm more concerned with the phrase "there's no  
20 teeth in it." Does that suggest there was some discussion  
21 to you about what possible sanctions or penalties?

22 A I think Tim was saying there was no penalty.  
23 Granted you have to remember that everything that I wrote  
24 down here about underscheduling load and we overschedule,  
25 we get paid imbalance, we buy in day-ahead they will be

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117:1 inc-ing every day, there's no teeth in it, these were all  
2 things that were said by Tim at this meeting. And I wrote  
3 them down on paper.

4 Q So you are essentially a scrivener so you could  
5 go back at some time and try to sort this out?

6 A Right. Assuming that I was asked to sort it  
7 out.

8 Q Right. To the best of your recollection, it  
9 reflects a fair, if not verbatim, at least complete?

10 A I tried to keep up with everything that he was  
11 saying.

12 Q Okay, going the next page, 0002, does that say  
13 anything about tiepoint generation, anything about what  
14 was said about that?

15 A Well, it's my understanding that this was a  
16 strategy. I don't know if this is the same strategy as  
17 the last one or if it is an additional one.

18 Q There is a reference there to "like on the  
19 gas"?

20 A Yes.

21 Q Was that meant to clarify the lines above?

22 A Like I said, I just was writing down what Tim  
23 was saying.

24 Q Okay. Now the next, not paragraph, but set of  
25 lines, "without us overscheduling, they would be

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118:1 devastated." Do you know who the "they" refers to?

2 A I think that means the California ISO.

3 Q And then the following line refers to the same?

4 A "We are not causing them to need energy" I  
5 think is the last line.

6 Q Was that offered as a rationale by whoever was  
7 the speaker as to why overscheduling did not have a  
8 deleterious effect on the market?

9 A Yes. And there are sprinkled throughout here  
10 things that I consider to be defenses and I think that is  
11 one of them.

12 Q Okay. Were these defenses offered in response  
13 to a comment from any person at the meeting, that there  
14 was an issue there?

15 A I think that a lot of them were offered by Tim,  
16 because he understood how the market was affected by the  
17 behavior that was engaged in. So he simply offered them.

18 Q Who was raising the questions?

19 A I don't think anybody asked him a question  
20 necessarily. I think he just said that this wasn't  
21 necessarily bad for the market, what they had done. You  
22 know, I think what he was trying to do was say here is a  
23 trading strategy. There is nothing in the tariff  
24 necessarily that we have seen that says that we can't do  
25 it. And it may have actually have been good for the

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119:1 market. And that was basically the way he was presenting  
2 stuff to us.

3 Q It wasn't a point/counterpoint?

4 A No, it wasn't a point/counterpoint.

5 Q Now, there's a line in the next paragraph which  
6 talks about "dispatcher said we can't do it." What was it  
7 they couldn't do?

8 A The California ISO dispatchers said, told us  
9 that we weren't supposed to do this particular thing.  
10 That is my recollection of it.

11 Q Was that to overschedule load?

12 A Whatever it was that are in the notes right  
13 before that, the little section that is before that.

14 Q Can you tell us what that is?

15 A Well, it's just where I wrote down "we buy from  
16 PX for known bid at tie point. We sell at the same time  
17 overschedule load by importing. Do buy/sell with  
18 El Paso."

19 Q The reference to El Paso, was that a party that  
20 also did this deal, or that needed to do this deal?

21 A We had a contract with El Paso to act as their  
22 realtime desk. And I think what this was, was I don't  
23 think there was anything necessarily that was questionable  
24 about the buy/sell with El Paso. I think that was just  
25 how this trading strategy was accomplished, because as I

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120:1 indicated to you before, we had the scheduling problem  
2 with the ISO and so we needed to park sometimes to use  
3 somebody who had generation to time it so we could get it  
4 into the ISO. I think that is what that reference is for.  
5 That is typically why we did buy/sells.

6 BY MR. BRUNO:

7 Q Do you know if this is El Paso Electric here?  
8 Who is the El Paso?

9 A You asked before if it was El Paso Electric or  
10 El Paso Merchant.

11 Q Yes. If you are describing a buy/sell or  
12 parking or lending are describing property and investor  
13 and utility; correct?

14 A They would have to own generation. I don't  
15 know whether they were, whether El Paso had sold off all  
16 their generation or not.

17 BY MR. BRUNO:

18 Q So you are not sure if this is El Paso Electric  
19 Company at this point?

20 A I don't know, sorry.

21 Q You also mentioned on the park and lend with  
22 El Paso?

23 A Right.

24 Q Would that be El Paso Electric or you are not  
25 sure?





121:1 A I don't know.

2 Q Just as a regulatory point of view, when it  
3 comes to this issue of parking and lending, generally that  
4 issue is held by a load-serving entity, isn't it, somebody  
5 that has to have a tariff on file here at the Commission?

6 A What do you mean?

7 Q Well, for example, if you are buying and  
8 selling and moving power in or out of that entity, doesn't  
9 it presume that the entity is a load-serving entity that  
10 probably owns its own generation or at least has contract  
11 on that generation to provide power for that load?

12 A Well, I just don't know enough about El Paso to  
13 know for sure. I know in California that the utilities  
14 had sold off 50 percent of their generation and I think  
15 they had a provider of last resort obligation. But  
16 El Paso, I don't think the Southwestern, any of the  
17 Southwestern companies had sold off their generation. But  
18 I didn't handle the Southwest. Once in a while I would  
19 help out on a question if they had it.

20 Q Who is the person more familiar with, for  
21 example, El Paso Electric's tariff and stuff like that at  
22 Enron?

23 A I would have to say it was probably the  
24 traders, because we had one guy who was handling the  
25 Southwest who was in regulatory affairs, Tom Delaney, but

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122:1 he was primarily involved in developing Desert Star and  
2 working on that. And I'm trying to remember some of those  
3 other efforts down there. But he didn't really work on  
4 many of the tariff files. There were a few tariff files.

5 Q Do you know when Enron started acting as  
6 El Paso's realtime desk?

7 A No. I didn't work on that. I know they had it  
8 for a while. But I don't know how long.

9 Q Was that still -- to the best of your  
10 knowledge, was that still occurring at the time you left  
11 in April of 2001?

12 A They were El Paso's realtime desk, yes. I  
13 think so.

14 Q Do you remember who headed the Southwest desk?

15 A I don't know that there was any head of the  
16 Southwest desk really, other than Tim. There were certain  
17 traders that traded the Southwest.

18 Q Do you remember who they were?

19 A I know Paul Choi traded in the Southwest, but  
20 he was a mid-marketer. And in terms of day-ahead, they  
21 had a real young guy, real new guy who traded the  
22 Southwest.

23 Q Can I offer a name?

24 A Sure.

25 Q Chris Mallory. M-a-l-l-o-r-y?

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123:1 A Yes, I think it was Chris Mallory.

2 Q Was Chris particularly knowledgeable about  
3 El Paso Electric or tariffs in the Southwest?

4 A I don't really think so. He was, like I said,  
5 kind of a new guy and kind of young. There were a couple  
6 of other guys who traded the Southwest, too. Day-ahead.  
7 They were relatively new. I can't remember their names.  
8 But I think they split up the work so that one did Enron  
9 on line and the other did just regular trading. I think  
10 that Chris was like, that Paul Choi did mid-market which  
11 was usually three-month or longer deals, and Chris was I  
12 think it was Chris, did front month-type stuff. And then  
13 there were two guys on day-ahead desk who did Southwest,  
14 and I think that Kim also traded Southwest sometimes. I  
15 can't remember her last name. More mid-market stuff.

16 BY MR. ROSENBERG:

17 Q Moving to the next page, 0003, where it begins  
18 a discussion of congestion revenue, was that in connection  
19 with a particular strategy? Did the topic switch now from  
20 overscheduling to congestion revenue? I'm trying to  
21 understand the structure of the meeting.

22 A To be honest with you, in my notes from the  
23 second meeting, I can follow where he starts talking about  
24 a new strategy because I numbered them and he had numbered  
25 them. But in this meeting I don't know where one stopped

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124:1 and one starts.

2 Q When he begins to discuss congestion revenue,  
3 that is a separate issue from overscheduling. Is that,  
4 generally speaking, fair to say?

5 A I don't know what the purpose of the  
6 overscheduling was.

7 Q Well, leaving overscheduling, now going to his  
8 discussion about congestion revenue, what did Tim say  
9 about congestion revenue?

10 A "ISO says that that is all we are trying to  
11 get, no same" -- I can't even read my notes.

12 Q Did Tim Beldon discuss that no congestion was  
13 actually being relieved, but that only congestion revenue  
14 was being generated by Enron?

15 A I guess I have heard that about what he said.  
16 I heard that at a lunch recently, that that is what he  
17 said.

18 Q From your understanding?

19 A Not from what is in my notes or my recollection  
20 of what happened. I don't have any firsthand knowledge of  
21 it. Unfortunately, what has been happening in the  
22 industry is a lot of people have been talking about these  
23 trading strategies and that is where a lot of my knowledge  
24 has been coming from, just anecdotes that I have heard  
25 from people lately.

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125:1 Q If you can separate that from what you recall  
2 at the time you prepared this memo, if it's Mr. Beldon  
3 talking, you have characterize him as a knowledgeable guy  
4 in the industry. Whatever you can remember is helpful.  
5 Was he trying to trying to explain here that the ISO's  
6 position was that congestion really wasn't being relieved  
7 in any real sense, but that revenues were being paid  
8 through one of these strategies?  
9 A What it says in my notes is we get or we got  
10 imbalance and congestion. That is what my notes reflect.  
11 Q Then there is a double asterisk, "cutting  
12 strategy most problematic for us."  
13 A Right.  
14 Q What does that mean?  
15 A It was my recollection that he said that,  
16 something about cutting the transaction was the most  
17 problematic for us. In terms of whether or not it was,  
18 whether or not there were any legal issues associated with  
19 this.  
20 Q It's not that the ISO cut the schedules?  
21 A I don't know who the noun is in the sentence,  
22 whether it was us cutting it or them. It says "most  
23 problematic for us."  
24 Q "Us" meaning probably Enron?  
25 A EPMI, yes. Then I also said something about it

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126:1 was an ISO reliability problem. It says "had to dec."  
2 That is what that says.  
3 Q So does that recall any description of any  
4 strategy that you later learned?  
5 A No.  
6 Q Moving to page 4, at the third to last line,  
7 talks about "we actually helped congestion, we actually go  
8 physical, we buy" --  
9 A "All the transmission."  
10 Q "All the transmission." Was that again an  
11 explanation of how this strategy described above was  
12 actually beneficial to the market?  
13 A I think that was a defense, yes.  
14 Q And this is --  
15 A And I think, as well as, so we are not making  
16 the BEEPS split. I think that was a defense, as well.  
17 Q Can you explain what the BEEPS split is?  
18 A No, I can't.  
19 Q Then it says "we just get congestion revenue."  
20 Is that, again, the idea that they were receiving revenue  
21 and not relieving congestion in any physical sense?  
22 A I don't know.  
23 Q The next page, I don't know if that is still on  
24 the same meeting. It appears --  
25 MR. REED: She indicated that it's not.



127:1 MR. ROSENBERG: -- in her cover letter.  
2 THE WITNESS: That is I think the morning of  
3 the 1st.  
4 BY MR. ROSENBERG:  
5 Q So just beginning with 0005?  
6 A With 10/03.  
7 Q That is the beginning of 10/03?  
8 A Yes, I think it was.  
9 Q Tell us the genesis of the 10/03 meeting. Who  
10 told you about it, where was it held, who was there?  
11 A I believe the genesis of that was Richard  
12 Sanders coming up to talk to us about the preparing to  
13 respond to the PUC data request, and that it was held in  
14 the large conference room on the trading floor in  
15 Portland.  
16 MR. COLLINS: Did they know about the October 3  
17 meeting, had they already planned the October 3 meeting  
18 when you met on October 2nd?  
19 THE WITNESS: I think so. Richard and  
20 Christian were coordinating quite a bit about this and I  
21 don't know whether I knew that it was going to happen the  
22 next day or not, to be honest.  
23 BY MR. COLLINS:  
24 Q I'm just wondering when -- it sounds as if the  
25 first time you heard about these strategies was right

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128:1 after the CPUC gave their data requests?

2 A Right. Well, what I recall happening was at  
3 the meeting in Christian's office, the death and dying  
4 meeting, that we said we wanted to know what our  
5 litigation risk was, and we wanted to know whether there  
6 was anything possible that we should know about that would  
7 be questionable so that we could figure out what the  
8 dollar amounts were, in terms of litigation risk,  
9 quantifying it.

10 Q Was it at your request then that Tim Beldon sat  
11 down with you on October 2nd, or was it Tim Beldon's  
12 request to sit down with you?

13 A I think it was really Richard Sanders,  
14 ultimately, his request, that he wanted to know what the  
15 litigation risk was. So Tim sat down with us as sort of  
16 here is what I think I have come up with so far, you guys  
17 start taking it down and figuring it out. And it was  
18 really sort of like a trial run, because as I said, he did  
19 not have his facts in order and there were a lot of  
20 missing pieces that day.

21 Q Was it a trial run for the October 3rd meeting?

22 A I think it really was, for him.

23 Q Was the October 3rd meeting just more or less a  
24 rehash and clarification of what happened October 2nd?

25 A There was a lot more detail and he brought in

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129:1 all of the people who were associated with the trades.  
2 MR. ROSENBERG: Who came to that meeting?  
3 THE WITNESS: I think the meeting in the  
4 morning was, had a smaller number of people. And your  
5 page is cut off at the top so I don't think it has  
6 everybody. I think ours does. No.  
7 MR. BRUNO: Here is a copy that is a little  
8 darker. Let's go off the record a minute.  
9 (Discussion off the record.)  
10 BY MR. ROSENBERG:  
11 Q Referring to MH 00005, does it tell you who was  
12 at that meeting?  
13 A Well, at 9:00 in the morning, it refers to Mike  
14 Day and Richard being there.  
15 Q Richard Sanders?  
16 A Yes. But then there was another reference to  
17 11:00 in the morning that was cut off at the top of the  
18 page. So I can't tell you who was there at 11:00. But I  
19 did write that down.  
20 MR. BRUNO: Let me see if I can refresh your  
21 recollection.  
22 THE WITNESS: Tim, Steve, Christian and  
23 Richard.  
24 BY MR. BRUNO:  
25 Q Tim Beldon?

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130:1 A Steve Hull, Christian Yoder and Richard  
2 Sanders.  
3 BY MR. ROSENBERG:  
4 Q Do you know what the numbers there or the  
5 multiplication, 120 times 100, refers to?  
6 A I think it might have been how much data there  
7 was that had to be produced.  
8 Q Who is Mike Day?  
9 A Mike Day was a lawyer with a California law  
10 firm.  
11 Q Same firm as Hull?  
12 A No.  
13 BY MR. BRUNO:  
14 Q Is that Brobeck?  
15 A No, he wasn't with Brobeck. I don't think. I  
16 think he was with a different law firm.  
17 BY MR. ROSENBERG:  
18 Q Was he there for a specific reason?  
19 A I can't remember why he was there.  
20 BY MR. BRUNO:  
21 Q Was he invited to the meeting by Richard?  
22 A I don't know. Either Richard or Christian.  
23 BY MR. ROSENBERG:  
24 Q Is he a civil or criminal lawyer, do you know?  
25 A All I know about him is that I think we used

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131:1 him for California matters. Might have been in terms of  
2 talking to the CPUC.

3 Q All right. Moving down the reference to  
4 October 5, is that a letter or is that the date the  
5 production was due?

6 A I think what we were talking about was doing a  
7 letter limiting the scope, and so my assumption is that we  
8 were talking about producing a letter by the 5th limiting  
9 the scope. Or a letter that limited the scope, didn't  
10 waive any rights. And I think we ultimately decided that  
11 we weren't going to state our objections in the letter,  
12 but we were going to state some problems that we had with  
13 the production.

14 But I said there we were going to state  
15 objections and the grounds. And that we were going to say  
16 that we were going to be able to provide the easy stuff by  
17 October 13. I don't know why, because it says happy to  
18 receive electronic, but I think they may have already  
19 indicated, the PUC may have indicated to us they would be  
20 happy to receive things electronically.

21 Q In this list that goes on this page, 1 through  
22 4, what is that list?

23 A Those refer to the data requests, the CPUC data  
24 request numbers.

25 Q Who took these -- who ticked these off, do you

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132:1 recall?

2 A This was Richard Sanders.

3 Q On the margin there is a notation going up the  
4 page, "take out the financials and" something?

5 A "And give them the physicals," right. What we  
6 wanted to know was, the problem was that we had made a lot  
7 of money in California and we thought that this was a  
8 political situation, where the state of California was  
9 trying to get money back, regardless of whether we had  
10 made it legally or not. And we had done a number of  
11 transactions that were where they didn't go to physical  
12 delivery. In other words, they were netted out.

13 And so what we had decided we were going to do  
14 was to look at the spreadsheets that we had and do a  
15 calculation of what our profit and loss would look like if  
16 we took out all of the transactions that didn't go to  
17 physical delivery. And then we were going to look to see  
18 if we could, while still complying with the request, not  
19 provide that information, not provide the transactions  
20 that didn't go to physical delivery. Because we wanted to  
21 make the number look as low as possible.

22 Q Did anyone discuss if that was a proper ground  
23 to resist a subpoena?

24 A No, the ground for resisting the subpoena  
25 was --

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133:1 Q Or that aspect of the subpoena?

2 A The ground for resisting that, the subpoena  
3 concerning supplying the data, the P&L information was  
4 that what they had requested was transactional information  
5 that was literally thousands of pages of documents. We  
6 discussed well, what do we want to do, do we want to give  
7 them, do we want to really give them everything they have  
8 asked for, because if we do, then they are going to take  
9 months to analyze it. Or do we want to simplify their  
10 analysis of it and try to provide it in some way that it's  
11 easier for them to review. I think that all these were  
12 legitimate strategies in terms of responses.

13 Q So there were two aspects, one is you didn't  
14 want to show this tremendous profit?

15 A Right.

16 Q Which may not have been a real profit?

17 A Right.

18 Q And the second thing was you wanted to provide  
19 it in some form that was manageable so the people, the  
20 California Public Utilities Commission would have an  
21 easier time with the production?

22 A Right. The question was whether we wanted to  
23 provide it in an easier way or whether we wanted to make  
24 it more difficult for them, but still comply with the  
25 request. And the third thing was, it was my view that the

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134:1 state of California didn't regulate wholesale  
2 transactions. And so I wanted to see if there was any way  
3 we could not provide information to them that we didn't  
4 think they had the right to, to legally obtain.  
5 Q Was that going to be, I will try to choose my  
6 words carefully, by withholding some data or by making  
7 some kind of a motion to resist that particular part?  
8 A We were going to go to court if we had to go  
9 keep from providing it.  
10 Q So the context of these lines are developing a  
11 legal strategy?  
12 A That's right.  
13 Q To respond to the subpoena and how to go?  
14 A That's right.  
15 Q It's not that this is how we are going to go?  
16 A No.  
17 Q We have to consider these issues?  
18 A Right.  
19 MR. BRUNO: Can I take a minute and mark the  
20 next exhibit in line. I think this is a better copy of  
21 what it is you are looking at. MH 005, through MH 008.  
22 (Hain Exhibit 11 identified.)  
23 MR. ROSENBERG: Which is some part of Exhibit  
24 5.  
25 THE WITNESS: The other thing was, not only was

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135:1 the CPUC asking for wholesale transactions, but they were  
2 also asking for information about trades that were done  
3 outside the state of California, which we also didn't  
4 think they had the right to demand.

5 BY MR. ROSENBERG:

6 Q Was it possible that Mr. Day was brought in as  
7 an expert on subpoena compliance? You said you talked --  
8 he responded to the subpoena because he knew something  
9 about subpoenas or --

10 A I can't recall.

11 Q At the bottom the last thing says "talk to" and  
12 it's cut off, "PPM about," then there is an arrow. Toward  
13 the bottom.

14 A It was "talk to Western Power Trading Forum,"  
15 it was "WPTF about," and Sue was the person who usually  
16 coordinated with Western Power Trading Forum.

17 Q There is an arrow that goes to Duke, I presume  
18 Duke Power?

19 A I'm sure it was Duke Power.

20 Q And that it involved Tim?

21 A Involved Tim.

22 Q What does that mean?

23 A I can't recall what it was.

24 Q Do you recall if it was to talk about it  
25 because it involved Tim, or involved Tim in the issue?

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136:1 A It was probably involved Tim in the issue.  
2 Q Why do you say that?  
3 A Just the way the sentence, the way I take  
4 notes, I guess.  
5 Q Now, there is something that says "dumb  
6 spreadsheets"?  
7 A "Dumb spreadsheets." Yes, there was a question  
8 about whether we were going to supply dumb spreadsheets or  
9 not.  
10 Q What are dumb spreadsheets?  
11 A Dumb spreadsheets are spreadsheets that you  
12 can't manipulate because you don't have the underlying  
13 program. All you have is the data.  
14 Q And you were concerned that California Public  
15 Utilities Commission was going to play around with the  
16 spreadsheets?  
17 A Well, the question was whether or not we wanted  
18 to supply them with -- you know, we were trying to like  
19 come up with a range of answers that we could supply and  
20 let the traders decide whether they wanted to let them  
21 manipulate them or whether they didn't want them to  
22 manipulate them. And it had been my recollection when I  
23 was at the FERC that somebody provided us with dumb  
24 spreadsheets once and it was really aggravating so I said  
25 this is what you want to do, you want to provide dumb

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137:1 spreadsheets or do you want to provide something they can  
2 manipulate.

3       And the other thing about that is sometimes the  
4 programs, some of the programs that are created by Enron  
5 were considered to be trade sensitive. In other words,  
6 they didn't want to just give away the software. So if  
7 they allowed the CPUC to have the software that would  
8 allow them to manipulate the data, then they would have to  
9 have some kind of agreement with the CPUC that they  
10 wouldn't sell it or, you know, they would pay for it or  
11 whatever. There were all of these issues. Fortunately, I  
12 do know something about these questions. As a lawyer, I  
13 would feel kind of embarrassed if I didn't know.

14       Q   We get to number 5 now, "describe role of the,"  
15 I guess stands for scheduled coordinators?

16       A   Yes.

17       Q   What role were you supposed to describe?

18       A   I don't remember what the question was,  
19 unfortunately.

20       Q   Just when you told us you remember?

21       A   I know.

22       MR. BRUNO: Before we get to the next line, at  
23 the top of the page it says "P&L," "every day" and  
24 "monthly."

25       THE WITNESS: That is profit and loss, and Tim

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138:1 got an e-mail every day indicating the profit and loss by  
2 day and by month.

3 BY MR. BRUNO:

4 Q Did you receive such a document?

5 A No, I did not.

6 Q Had you ever seen one while you were at Enron?

7 A I didn't even know he had gotten it until I  
8 found out at that meeting. That's why I wrote it down.

9 Q Okay.

10 A It was extremely confidential, too. That is  
11 what Tim said. Very confidential.

12 Q Was that something that California wanted in  
13 their data requests?

14 A Yes, they did. And that was something, as I  
15 indicated on page 1, that we would die on the Hill for.  
16 That is what Enron did not want to produce, P&L data.

17 BY MR. ROSENBERG:

18 Q And the reason being?

19 A They didn't want anybody to know how much money  
20 they were making. They didn't want their competitors to  
21 know how much money they were making either. It was  
22 competitive information. It was both business proprietary  
23 and also politically sensitive information.

24 Q Was there a discussion -- you say "die on the  
25 Hill." How far were they willing to take it?

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139:1 A That's just what Richard Sanders said. He said  
2 that he had heard from higher levels that Enron would die  
3 on the Hill rather than provide that information. And  
4 ultimately this information was never provided, because  
5 apparently they were just getting around to providing it  
6 when Enron declared bankruptcy.

7 Q Did you understand "die on the Hill" to mean to  
8 resist the subpoena by legal and extralegal means?

9 A I don't think that Richard Sanders, as  
10 litigation counsel for Enron, would be advocating that we  
11 resisted by extralegal means.

12 Q What does "die on the Hill" mean in the context  
13 of this conversation?

14 A Well --

15 Q This meeting.

16 A What I understood it to mean was that we would  
17 do everything legal to keep from having to produce it.

18 Q Is that still your feeling today as you sit  
19 here and read this document today?

20 A Well, Richard said they were getting ready to  
21 provide it just around the time Enron declared bankruptcy.

22 BY MR. BRUNO:

23 Q When did Richard tell you that?

24 A We talked when I needed counsel for this, when  
25 I found out that I was going to be served by the AG with

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140:1 data requests or subpoenaed by them.

2 Q Do you remember when that conversation  
3 occurred?

4 A Yes, I think it was the day that, or the day  
5 after he testified on the Hill.

6 Q That was before the Senate committee here in  
7 Washington?

8 A That's right.

9 Q So you called him?

10 A I called him.

11 Q Do you remember how long the call was?

12 A Probably about 20 minutes.

13 Q And you mentioned that you discussed about  
14 getting counsel. And that Richard made these comments  
15 saying they would have done it but for the bankruptcy,  
16 meaning produced the P&L data?

17 A That's right.

18 Q Do you remember anything else you discussed?

19 A We discussed whether there would be a conflict  
20 of interest, who the various counsels were that were  
21 available and we talked about, because it was my  
22 understanding that the traders had asked for counsel, and  
23 we talked about the process for getting Enron to approve  
24 counsel for us because we had to go through the bankruptcy  
25 court to do that, and I can't remember.

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141:1 I mean we might have talked about some other  
2 sort of memorable things they testified about. I think  
3 the primary thing that we talked about was the fact that  
4 they kept asking Christian and Richard to testify about my  
5 notes, and how frustrating that was because they didn't  
6 know the answers to questions about my notes.  
7 But we also mentioned the fact that, oh, I also  
8 mentioned the fact that I had put dollar amounts in my  
9 notes with respect to the various trading strategies, you  
10 know, where we tried to nail down how much was related to  
11 each one of the trading strategies, and how that was such  
12 a relatively small number as compared to the billions,  
13 hundreds of billions of dollars that the Senate was  
14 drilling these guys about. They kept saying there's  
15 hundreds of billions of dollars at stake, when my notes  
16 and I don't know if his notes, but we were all taking down  
17 what Tim was saying, say dollar sign 6 and dollar sign 10,  
18 which means 10 million, and dollar sign 5, which means  
19 5 million, and how political the same thing.  
20 BY MR. ROSENBERG:  
21 Q It was still serious money.  
22 A It was still serious money, and no one ever  
23 said that what was done was illegal, either. The thing  
24 was it was they brought up all these cards and put them  
25 behind the Senators and said here are all the laws that

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142:1 may have been violated and never drew the lines between  
2 the dots that said here was the behavior and here is how  
3 it was illegal and here is what you guys did that violated  
4 the law.

5 MR. REED: Are you asking for her to testify  
6 about her opinion about the hearings?

7 MR. ROSENBERG: She was offering.

8 THE WITNESS: He asked me about what we had a  
9 conversation about. I'm telling him what we talked about.

10 MR. BRUNO: Exactly.

11 THE WITNESS: The other thing I talked about  
12 was my frustration what with the fact that they were  
13 essentially making Christian sound like he was a liar, and  
14 I knew Christian for a fact read the Bible every night.  
15 He is one of the best people I have ever met, and how  
16 outraged I was about that.

17 BY MR. ROSENBERG:

18 Q There is nothing behind you, no criminal  
19 statutes cited, no numbers there. As you sit here today  
20 on July 1, 2000 --

21 MR. BRUNO: July 2.

22 BY MR. ROSENBERG:

23 Q July 2. As you sit here on July 2nd, and as  
24 you read this memo, is there anything about that meeting  
25 which caused you reservations as an attorney about the

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143:1 discussion?

2 A No. In terms of responding to the data  
3 requests, if that is what you are talking about.

4 Q Anything that was said which, and I'm asking  
5 you to respond as an attorney with obligations and as an  
6 attorney, did anything strike you as improper?

7 A No.

8 BY MR. BRUNO:

9 Q Before we leave that page there, I believe that  
10 was the second page of Exhibit 11. I think it's MH 006.  
11 At the bottom number 17 states "propose to eliminate  
12 spread transactions." Do you see that?

13 A Yes.

14 Q Do you know what that is about?

15 A I don't know what spread transactions are.

16 Q Traders speak in terms of trading a spread?

17 A Right, trade a spread, but I'm sure they  
18 weren't talking about, that would have eliminated every  
19 profit. Seems like.

20 Q So you are not sure what that means?

21 A I don't know what that means, no.

22 Q Okay. Thanks.

23 MR. ROSENBERG: I have now adjusted my watch to  
24 reflect the correct date.

25 BY MR. ROSENBERG:

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144:1 Q The notes that you said they were holding up  
2 and attempting to get Mr. Yoder to discuss, are these the  
3 notes that we are discussing today?

4 A Yes.

5 Q How do you know that?

6 A Because they were talking about the notes that  
7 were posted on the attorney general's Web site, in the  
8 hearing.

9 Q And this is a subset of those notes?

10 A Yes, it is.

11 Q Now, did you think that as you were  
12 participating in that discussion that the financial  
13 information that was going to be conveyed in that response  
14 to the California Public Utilities subpoena was going to  
15 be fair and accurate at the time that it was responded to?

16 A Well, we would have made sure that it responded  
17 to the request, whatever the request was. I would not  
18 have advocated that we didn't comply with the request.

19 Q Well, I guess my question is, subject to all  
20 the qualifications that you were discussing, that you  
21 would try to have a legal basis for resisting, do you  
22 think overall, it would have reflected fairly the position  
23 of Enron with respect to their power trading once it got  
24 to the California Public Utilities Commission, over  
25 subject matters that California had jurisdiction over?

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145:1 MR. REED: I think you first need to ask  
2 whether they intended to negotiate the scope of the  
3 request.  
4 BY MR. ROSENBERG:  
5 Q I think you can answer, but if you prefer to  
6 answer it that way, did you intend to negotiate the scope  
7 of the request?  
8 A That is what we were doing. That is why we had  
9 the meeting, was so we could figure out what we wanted to  
10 negotiate, what we were going to be willing to provide.  
11 Q Okay. The last page of this section, 0008, it  
12 talks about "critical days, ISO stage 2 emergency." How  
13 was that broken out, in response to what?  
14 A I don't know.  
15 MR. BRUNO: Before we finish there, on the page  
16 just prior to that, starts at the top, "proposed to get  
17 from ISO to PX."  
18 THE WITNESS: Yes.  
19 BY MR. BRUNO:  
20 Q As you go down, it says "Cara contract" on  
21 number 16?  
22 A "Contact."  
23 Q "Contact," I'm sorry.  
24 A Cara Semperger was the head of the scheduling  
25 desk and she knew, she had all the scheduling information.

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146:1 Q So she was the most knowledgeable person when  
2 it came to scheduling?

3 A Yes, on question number 16, responding to  
4 question number 16.

5 Q Scheduling sheets includes not monthly  
6 book-outs but daily book-outs, is that what that means,  
7 but not others? Can you explain what that is all about?

8 A The monthly book-outs must have been on some  
9 other database, but not in the scheduling sheets. Yes. I  
10 don't know which one of the other programs. In other  
11 words, we were talking about where the information was  
12 added.

13 Q And you are trying to identify the particular  
14 databases where this information might reside?

15 A Right.

16 Q "But excludes options." Are you talking about  
17 financial options there?

18 A I guess so.

19 BY MR. ROSENBERG:

20 Q Okay. Immediately above that, the term  
21 "tags/paths" is used. What do you understand that to  
22 mean?

23 A Tags would have been the NERC, tags and paths  
24 would have been the source and sync.

25 Q And what function do the tags play?

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147:1 A The tags show, I think they show every party in  
2 the transaction.  
3 Q And in order to understand the transaction, one  
4 has to see the whole tag?  
5 A Right.  
6 Q Are you familiar with tags?  
7 A I have seen tags, yes.  
8 Q Can you read them?  
9 A I sat with the schedulers and saw what one  
10 looked like once.  
11 BY MR. BRUNO:  
12 Q Underneath there it says "get expense RT for  
13 trans," and it says -- is that Cara again?  
14 A Yes. That was Cara.  
15 Q Do you know what that is about?  
16 A I usually use "trans" to stand for transmission  
17 or transaction, and I don't know what it is in that  
18 context. RT would be route or right and I don't know what  
19 it stand for there either. I don't know. It's  
20 transaction, maybe. Sorry.  
21 Q Would this be referring to expensing or paying  
22 for transmission or would this be possibly an exchange of  
23 transmission rights among books or do you have any idea  
24 what that might refer to?  
25 A No, I really don't.

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148:1 BY MR. ROSENBERG:  
2 Q Okay. I think we have now left this exhibit.  
3 MR. BRUNO: That has exhausted Exhibit 11.  
4 MR. ROSENBERG: The next exhibit I think begins  
5 on --  
6 MR. BRUNO: Exhibit 5 is MH 0009.  
7 MR. ROSENBERG: So the next one begins on 10.  
8 Can you tell us what MH 0010 Bates stamp reflects.  
9 THE WITNESS: I'm sorry, on 10.  
10 MR. BRUNO: Before we get there. MH 0009 looks  
11 like it starts with Mike Day at the top. Says "Dean  
12 Christy."  
13 THE WITNESS: Yes.  
14 BY MR. BRUNO:  
15 Q On this document are you referring to who is  
16 attending a particular meeting or do you know what that  
17 note might be about?  
18 A The problem with these notes, all of these  
19 notes is that they were in kind of like a day book. I  
20 didn't really keep a day book, but I kept like a ring  
21 binder that I would just grab and write notes on. I don't  
22 know if that this is like a continuation of a meeting or  
23 what this is. I suspect it's not a continuation of a  
24 meeting because I usually didn't start something new on a  
25 separate page. This might have been like a phone

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149:1 conversation about the data requests that I had with  
2 Richard Sanders, where he told me what the results of  
3 discussions were with the PUC because I see the PUC  
4 people's names down here. But other than that, I can't.  
5 MR. BRUNO: Okay. Thanks.  
6 BY MR. ROSENBERG:  
7 Q Now we are on 10. 10 has some notations above  
8 the date, 10/3/00, and 10/3/00 was day of the meeting; is  
9 that correct?  
10 A Yes.  
11 Q And there is a list which includes Mike Day,  
12 Mike Smith, who is Mike Smith?  
13 A I don't remember. Oh. Might have worked on  
14 the trading floor. I can't remember.  
15 Q Okay. Seabron, S-e-a-b-r-o-n, Adamson?  
16 A Yes. He worked for Tabors Caramanis.  
17 Q Is he an economist?  
18 A Or engineer. No, maybe he didn't work for  
19 Tabors. Maybe he was on his own. I guess he was on his  
20 own. Sorry.  
21 Q And the other parties, who is Gary Fergus?  
22 A He was outside counsel for Enron, on the  
23 litigation, California attorney.  
24 Q Do you know what firm he was associated with?  
25 A Yes, I do. Brobeck. He used to be. He is not

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150:1 with Brobeck anymore.

2 Q And Paul Caplan is your boss?

3 A He was my boss. I can't remember exactly if he  
4 was my boss at that time or Jim Steffes was.

5 Q At some point he was your boss.

6 Now, there are no -- that just identifies  
7 individuals. That was everybody who was at the meeting?

8 A I don't know whether it was everybody at the  
9 meeting or not. I think that Tim was there and I think at  
10 various points various traders walked in and out and,  
11 shoot. Every time I look at these I get confused because  
12 they seem out of order, but I have tried to put them in  
13 the order that they are best in, and it still never makes  
14 sense at all. So anyway, your question was --

15 BY MR. ROSENBERG:

16 Q Who was at the meeting, at the 10/3 meeting, do  
17 you recall?

18 A I know Tim was there and I know that he brought  
19 various people in and out. I think Cara came in at one  
20 point or another.

21 Q Did Swerzbin come in, that you recall?

22 A I don't think Swerzbin came in, but I think  
23 John Forney came in. And maybe one of the realtime  
24 traders came in.

25 Q Richter?

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151:1 A Richter might have come in.  
2 MR. BRUNO: Mr. Driscoll.  
3 THE WITNESS: Driscoll might have come in.  
4 BY MR. ROSENBERG:  
5 Q Tell us about the structure of the meeting, how  
6 did it start?  
7 A Well, that's part of my problem, is that  
8 because the pages seem out of order, I can't remember how  
9 the structure went, but I know that we discussed once  
10 again both the trading strategies and discussed responding  
11 to the CPUC request.  
12 BY MR. BRUNO:  
13 Q Earlier you described a meeting, I understood  
14 you to say as occurring in a conference room off the trade  
15 floor. I will just refer you to Exhibit 4 which is the  
16 schematic you drew. There is a conference room that is  
17 indicated on the trade floor. Do you remember if it was  
18 there?  
19 A No. I didn't draw the entire trading floor.  
20 There's like a hallway here and this was just more of an  
21 open trading area here.  
22 MR. ROSENBERG: Indicating the area below.  
23 THE WITNESS: Where Steve Hull is.  
24 MR. BRUNO: Behind Steve Hull.  
25 THE WITNESS: Right. And then on the other

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152:1 side, right adjacent to that there was a large conference  
2 room and then adjacent to the cave there was a smaller  
3 conference room or I indicated where the video conferences  
4 take place. It was in the big conference room.

5 BY MR. ROSENBERG:

6 Q And the big conference room seated more people?

7 A Yes.

8 Q So who of the traders do you recall being

9 there? You said Forney?

10 A Tim Forney, maybe Driscoll. I can't think who

11 else.

12 Q Who ran the meeting?

13 A I think it must have been Richard Sanders.

14 Q And you said two things were discussed, the

15 training strategy as well as the responses?

16 A Right.

17 Q To the PUC subpoena?

18 A Right.

19 Q Were they discussed in tandem, together, one in

20 the morning, one in the evening, how did it go?

21 A They were discussed at separate times, because

22 my notes list Tim's discussion of the strategies and he

23 went on and on for quite some time about them.

24 Q Was there some kind of a board that these

25 strategies were discussed, with an aid to the discussion

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153:1 of the strategies?

2 A Yes. I can't recall. One other time I went in  
3 there and he was talking about, Tim was talking about  
4 something, and I can't remember if he just made these  
5 presentations on the white board or if there was also,  
6 there was this other thing that was like a white board but  
7 you could print out from it. You know, you wrote on it  
8 and then pressed a button and it printed it out. I  
9 remember him doing that on one occasion, but I don't know  
10 if that was this day or not.

11 Q Tell us what was discussed about the subpoena  
12 first at this meeting.

13 A That was on page 0010. And once again we  
14 talked about having sort of an initial wave of, first  
15 sending them a letter asking them to narrow the scope and  
16 stating our objections. And then making a first  
17 production, but not waiving objections. I think that that  
18 first production was supposed to be the relatively simple  
19 things to do which were the original charts, telephone  
20 directories, corporate history and family tree. We also  
21 discussed giving them exemplars rather than every single  
22 iteration of the telephone directory and the  
23 organizational chart. And I mentioned that I would  
24 provide copies of the documents that we provided to FERC.  
25 That is what I wrote I will do this for.

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154:1 Q At the bottom of that page there is a line that  
2 talks about "show the Powerex, Williams" --  
3 A "Hogs at the trough."  
4 Q Yes. What does that mean?  
5 A I wanted to fully defend these guys by stating  
6 everything that they knew about any other bad players in  
7 the market and what they were doing. Including I had  
8 heard things about Powerex, I had heard things about the  
9 generators in California. I heard things about maybe  
10 Bonneville. And I asked them if they were willing, as  
11 part of our defense in this case, to say who all the bad  
12 people were, because I said, you know, FERC is going to be  
13 looking for money back from you guys. You guys made a lot  
14 of money and if you are telling me that you didn't do it  
15 illegally, but everybody else did, then you have to say  
16 who did it illegally. And they didn't want to, because  
17 they transact with these people and they -- I mean, they  
18 only let me file one complaint the whole time I was there  
19 against a competitor because they didn't want to establish  
20 bad business relationships by turning people in.  
21 Q But you had posited as part of the strategy for  
22 defending your employer?  
23 A That's right.  
24 Q And did you have the information or did Enron  
25 have the information to make good on this --

---

155:1 A No.

2 Q -- defense to show these guys to be hogs at the  
3 trough?

4 A No, they never really gave me any information.  
5 I mean, I don't know whether it's because the traders  
6 didn't have the information and they just felt like they  
7 knew what everybody was doing or whether they had any good  
8 information or not.

9 Q What made you believe that this was a viable  
10 course of defense?

11 A Well, I heard them talk about it. I had heard  
12 them talk about how it was really the generators in  
13 California who were gaming the market. It was really the  
14 utilities who were underscheduling the load. Really  
15 Powerex that was refilling their dams all night long and  
16 then selling during the peak. And I don't know how they  
17 were using that to exercise market power, but apparently  
18 they had a lot of power.

19 Q Did you believe that that data existed  
20 somewhere at Enron that would show this information?

21 A At the time? No, I didn't necessarily believe  
22 it, other than maybe it was in the traders' heads.

23 Q Did you feel the traders had some basis for  
24 making this claim from your experience?

25 A Well, I mean, Tim Beldon was a very smart guy

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156:1 and he could see some information. I don't know how much  
2 access he had to information about what was happening in  
3 the market, but I'm sure he could see some information  
4 about the market. And some of it just strikes me as being  
5 common sense, given that the generators in California had,  
6 you know, there were a small number of them and they owned  
7 all the generation and the utilities were required to sell  
8 all of their power into the power exchange and buy it back  
9 from the ISO at realtime prices. And so for 50 percent of  
10 their need to meet their load, the California utilities  
11 had to go to the ISO to buy and generators were selling  
12 into the ISO.

13 Q They were selling at premiums?

14 A Well, the problem was that, as I understood it,  
15 there had been two years of extremely high hydro. One  
16 year 116 percent and another year 125 percent. Hydro.  
17 And then we were like at a 65 percent year. And so there  
18 was a shortage. And I guess the assumption is that if you  
19 own generation into California, you know, there's only so  
20 much transmission that goes down to California from  
21 outside, from outside the state. But if you own  
22 generation in California, you can name your price. It  
23 doesn't take a lot of proof or anything other than common  
24 sense to figure that out.

25 Q All right. So you feel that this strategy was

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157:1 consistent with the fight it to the death idea that had  
2 been reflected in your earlier notes?  
3 A It's not at all related to, in the least way  
4 related to that question or to that issue.  
5 Q Seems there were two -- you can correct me if I  
6 have a misimpression -- seems to me the subpoena was going  
7 to be resisted lawfully, and another strategy was to I  
8 guess deflect attention toward Powerex and what Williams  
9 was doing and at least suggest, in your view, the real  
10 beneficiaries of the price spikes?  
11 A That is what I wanted the traders to do. I  
12 wanted them to defend themselves and they didn't want to.  
13 Q And they didn't want to because it was a  
14 business decision not to ruffle feathers with people you  
15 do business with?  
16 A Right.  
17 Q So it's your position that the traders were in  
18 a position to know about excesses or improprieties by  
19 Powerex and Williams because of the nature of the trading  
20 they did with them?  
21 A I just think that they thought that there were  
22 abuses going on, but I don't know whether they had any  
23 good or hard or fast data. I don't know whether there was  
24 anything that I could have used to defend them with.  
25 Q All right. So you took a rather active role in

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158:1 coming up with the strategy at these meetings, at least?

2 A I tried to advocate that, and I also, as I  
3 said, the other thing that I recall about the meetings was  
4 that I advocated that to the extent that we could, that we  
5 should argue that the CPUC did not have jurisdiction to  
6 get this information.

7 Q Okay. Which would be resisting the subpoena  
8 through legal challenges?

9 A Right.

10 BY MR. BRUNO:

11 Q One thing I want to ask you. You said that the  
12 traders were telling you not to describe the fact that  
13 Powerex may have been doing things that I think you  
14 indicated in your notes -- about gaining market or taking  
15 advantage of the market and also that Williams may have  
16 been doing some stuff there as well because they didn't  
17 want to upset business relationships. These were  
18 competitors, though, right, these are people they are  
19 competing with? What business relationships was it that  
20 the traders are referring to?

21 A You have to understand how the traders act.  
22 Okay. They sit on the trading floor every day and they  
23 call up their friends and they say I need to buy 30  
24 megawatts of power. They call up Williams and they say I  
25 need to buy 30 megawatts of power. They call up Powerex

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159:1 and say I need to buy 30 megawatts of power.  
2 And if they pissed off Williams or Powerex,  
3 Williams or Powerex will tell them go buy it from somebody  
4 else, I'm not your friend anymore. It's a business  
5 relationship. It's like who do you play golf with and who  
6 are you pals with. That is how it works.  
7 If you really feel like you have been wronged  
8 by somebody and you are willing to upset that  
9 relationship, then you go ahead -- or you feel like you  
10 have a really, really, really good basis to complain  
11 against somebody and you feel like you have nothing to  
12 lose, maybe you bring this up, but otherwise I think our  
13 people thought we didn't have anything to lose in this  
14 case by the CPUC or FERC, because we weren't the bad  
15 actors. It was others who were the bad actors, and they  
16 just thought that the facts would come out that way.  
17 Q And the reference to Williams, are you  
18 referring to Williams' trading arm or referring to their  
19 generation?  
20 A I think that must have been their generation  
21 arm. Whatever that was.  
22 Q Because, you were there, you have dealt with  
23 these guys on a daily basis, you didn't get the impression  
24 that the concern was that there was some sort of tacit  
25 agreement between themselves and these other --

---

160:1 A No.  
2 Q -- marketers, that they would be running afoul  
3 of by doing these things?  
4 A No.  
5 Q Okay. At the top of the document it says "EEMC  
6 equals PGE," looks like an arrow. Then it's hard to read  
7 it.  
8 Here is a document. I just want to see if this  
9 refreshes your recollection as to what that might have  
10 been. Do know what that means?  
11 A No. I just -- I can't think what it means.  
12 Q Okay. Do you know what EEMC might be?  
13 A It's frustrating, I can't think who that is.  
14 Q Because later down in the document you said PGE  
15 is short, say that?  
16 A Yes.  
17 Q Then "tell PGE Mike Day is asking for more  
18 time." Do you know what that is about?  
19 A PGE is short, was I think another defense. In  
20 other words --  
21 Q Are we talking about Portland General?  
22 A Yes, Portland General. When I wrote PGE it's  
23 Portland General. Portland General is short, PGE was a  
24 great example of -- compared to what had happened in  
25 California, of how people, companies should hedge

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161:1 themselves for times of shortages, and what I was trying  
2 to say there was that PGE is net short.  
3 In other words, they own less transmission than  
4 they have load but they had hedged themselves by entering  
5 into long-term contracts to protect themselves from high  
6 prices which the California utilities didn't do. And so  
7 that was another thing that we could use to say that is  
8 how it's done right. That is how it should be done.

9 BY MR. ROSENBERG:

10 Q So this meeting is not only dealing with the  
11 subpoena but it's dealing with the overall defense?

12 A Overall. There were some overall discussions  
13 about defense.

14 Q Turning to the next page, 0001, is that your  
15 handwriting?

16 A Yes.

17 Q If I read it correctly it says no e-mails  
18 except to Richard at his direction. Did the subpoena call  
19 for communications including e-mails?

20 A What this was saying was, this was Richard  
21 saying that he did not want anybody to send any e-mails  
22 except at his direction because he didn't want anybody  
23 violating attorney-client privilege.

24 Q So this was a prospective instruction?

25 A That's right.

---

162:1 Q It's not referring to anything else?

2 A No.

3 (Recess.)

4 MR. ROSENBERG: It's now 4:24 p.m. There have  
5 been no substantive discussions during the course of the  
6 break.

7 BY MR. ROSENBERG:

8 Q Moving along, Bates stamp number MH 0012, can  
9 you place a time on that? Is that a continuation of the  
10 same document or the previously discussed document?

11 A It appears to be part of the same discussion.

12 I know it starts on a separate page, but we were referring  
13 to opposing the PUC's jurisdiction and objecting to number  
14 7 and 8 as extrajurisdictional and have some defenses that  
15 PGE was hurt by high wholesale prices in California. And  
16 the daily position report that Tim gets.

17 Q Now there is a remark at the bottom of that  
18 page, MH 0012, and I guess it refers with an arrow to "if  
19 tags out and back in data won't allow to trace easily."

20 What does that refer to?

21 A I don't know.

22 Q Earlier you said that the tags show every party  
23 to a transaction?

24 A Yes.

25 Q And you could trace, I guess the transaction

---

163:1 through the full tag. What do you recall, if anything,  
2 about this statement? Was there any discussion about any  
3 attempt to not provide the full tag information?

4 A I have a feeling that that last line has to do  
5 with the part that starts out "ask Tim will they get  
6 financial deal from ISO and PX. Answer, no, WCCS okay.  
7 If tags," I think that is all related somehow, but I just.

8 Q What does it mean?

9 A I can't tell you what it means. That is the  
10 problem.

11 Q Can you state whether it has anything to do  
12 with removing information on the tags?

13 A I don't know what it has to do with. I'm  
14 sorry.

15 MR. REED: I think the question is do you  
16 recall any discussion about whether anything would be  
17 taken out of the tags.

18 THE WITNESS: I don't know what the notes mean.  
19 I really just can't help on that at all.

20 BY MR. ROSENBERG:

21 Q Aside from the note, was there any discussion  
22 about making it more difficult to trace the transactions  
23 by providing only limited information or excluding some  
24 information?

25 A I don't remember whether we did or not. I

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164:1 specifically remember talking about financials versus  
2 physicals, but this, I don't. You know, the only thing I  
3 can think of is that, one thing we did discuss was there  
4 were various programs that we had the information that had  
5 been requested available in. And we talked about whether  
6 we were going to delete the categories of information that  
7 had not been specifically requested by the PUC. And that  
8 is the only context I can think of where we discussed  
9 removing information from the spreadsheets that had not  
10 been requested, removing of categories of information, but  
11 that is my only recollection.

12 Q I don't want to characterize it, because as you  
13 explained earlier, some things, if they are stated  
14 prospectively, mean a completely different thing than if  
15 they were referring to something happening in the past,  
16 but I would like the record to reflect what your position  
17 is with respect to that last line there, your best  
18 understanding of what it refers to. So the record is  
19 clear.

20 A I'm sorry, but I just, I have no idea what it  
21 means.

22 Q Then moving along to MH 0013. At the top it  
23 lists the strategies; is that correct?

24 A Yes.

25 Q Were they -- did he give a list?

---

165:1 A Yes.  
2 Q And then go back and discuss them?  
3 A Yes, he did.  
4 Q On the other side of the page there is  
5 something about "offers" and it refers to path 15,  
6 withholding, and looks like "PA."  
7 A I don't know what "PA" stands for.  
8 Q Do you know what "offers" refers to?  
9 A I don't. I don't know what "defense" means,  
10 either. I wrote that at the top of that list of  
11 strategies. I almost think that is the way he wrote it on  
12 the board.  
13 Q Okay. So then let's take the first one. That  
14 refers to expost?  
15 A I think it's "export."  
16 Q Export, I'm sorry.  
17 A 40 megawatts.  
18 Q What do you recall about that strategy?  
19 A Well, the important thing about it is the  
20 dollar sign and the 6 next to it. Because that should  
21 have had a little M next to it, but that meant \$6  
22 million. That is the thing I was most concerned about,  
23 was how much was the litigation risk associated with that.  
24 Q What was the risk without attaching a number,  
25 what was the legal risk?

---

166:1 A It was of this export strategy.

2 Q What did Tim Beldon say was the export  
3 strategy?

4 A Well, it's funny, because it says "export," but  
5 then says "Death Star" underneath it, and the only thing  
6 it says about the export strategy was 40 megawatts, Palos  
7 Verdes, \$125 and SP 15 is 115, and we are exporting, and  
8 then it says "real," and real means transmission. But I  
9 don't know how that works.

10 Q Did the 6 figure, which you say refers to  
11 6 million, was that offered by Tim?

12 A Tim. We asked him with respect to every single  
13 one of these what the dollar amount was or I tried to make  
14 sure that we pinned him down on every single one.

15 Q What was that, why did you feel it so important  
16 to understand that, just as a general exposure?

17 A Yes, I thought when we came to FERC that,  
18 although FERC, I thought, could not require refunds unless  
19 somebody had violated the tariff, that we were still going  
20 to be called to come to the table at FERC and put  
21 something in, in terms of an offer. And I wanted to have  
22 the largest amount dollar figure in mind that we were at  
23 risk for if we litigated.

24 Q Did you understand that you would be one of the  
25 point people in negotiations with FERC, you had some role

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167:1 in it?

2 A I would probably have a behind-the-scenes role.

3 Q Does that refer to the export strategy to take  
4 power in California and export it, buy at the CAP price?

5 I could be wrong. What do you understand an export  
6 strategy to mean?

7 A I don't understand what the export strategy  
8 means.

9 Q It's not explained further on in the memo. All  
10 right. Let's just move now to --

11 MR. COLLINS: What was your dollar exposure for  
12 the export?

13 THE WITNESS: 6 million.

14 BY MR. COLLINS:

15 Q Did understand that to be -- what did you  
16 understand that to represent?

17 A It's frustrating, because I think it was a  
18 to-date number, but I may be wrong on that. That is my  
19 assumption, is that it was a to-date number.

20 BY MR. ROSENBERG:

21 Q What does that mean?

22 A Up until that point in time, that is how much  
23 money they had made on it.

24 MR. COLLINS: In total profits.

25 THE WITNESS: Yes. That's my assumption.

---

168:1 MR. COLLINS: Is that your understanding?

2 THE WITNESS: I may be wrong, but that was my  
3 assumption.

4 BY MR. ROSENBERG:

5 Q But you have no understanding what the strategy  
6 referred to?

7 A I don't understand the export strategy. I do  
8 not.

9 MR. COLLINS: Is Tim conversant and well enough  
10 versed in this that he would know what the total profits  
11 would be for all these different strategies?

12 THE WITNESS: It strikes me that there was a  
13 number that we had in mind after the meeting, and that he  
14 might remember that off the top of his head. I thought I  
15 remembered it off the top of my head. When I went back to  
16 my notes and tried to add it up, it didn't make sense  
17 entirely.

18 BY MR. COLLINS:

19 Q It's not the kind of thing you could get off a  
20 P&L report, I would think.

21 A You would have to have the specific  
22 transactions. Lots of detailed information about them to  
23 ferret that out.

24 Q But this is a number he gave at the meeting, I  
25 assume?

---



169:1 A Right.  
2 MR. REED: Was it a request you had made of him  
3 to assemble it?  
4 THE WITNESS: We just asked for ballpark  
5 numbers. I don't think he had done any, I don't think he  
6 had done any hard and fast calculations. I think they  
7 were just kind of, do we have some idea how much we have  
8 made on this.  
9 BY MR. COLLINS:  
10 Q You don't recall how he would have calculated  
11 it?  
12 A No.  
13 BY MR. ROSENBERG:  
14 Q Let's move to Death Star.  
15 A Death Star, which appears to be out of order.  
16 Q What did you understand -- how did you  
17 understand the term, how was it introduced, did he explain  
18 what the term "Death Star" referred to?  
19 A Well, what he said was that the term Death Star  
20 referred to scheduling a wheel, in other words,  
21 transmission through California, for example. I guess  
22 buying at Mead and exporting at Malin and then getting  
23 paid the counterflow and ricocheting in the Northwest and  
24 buying transmission from COB to Mead.  
25 Q Could you follow this transaction?

---

170:1 A Could I follow it?

2 Q Yes.

3 A Other than what it says. I mean, I understand  
4 that COB is the California-Oregon border and I think that  
5 Malin is Southern California. The other thing that Tim  
6 talked about a lot on this was how they were using  
7 transmission that was owned by the LADWP, and that that  
8 was good for the market. Somehow. I thought he said it  
9 created more efficiency or something by using that  
10 transmission. I don't see it here.

11 Q Did he explain that this strategy involved the  
12 actual physical movement, involved the actual transmission  
13 through the grid or that it was strictly a congestion  
14 relief payment, without any real flow of electrons?

15 A Well, it says in my notes here that if it  
16 doesn't get cut, no power flows.

17 Q And it says that in the same page?

18 A No, it says that on the next page.

19 Q All right. So why don't you take as much of  
20 the notes as I guess you need to, to refresh your  
21 recollection as to what you understand this transaction  
22 was.

23 A It looks like what is on page 14 is another  
24 version of Death Star.

25 Q Well, did you understand Death Star to -- a

---

171:1 piece of Death Star to involve a flow that would not be  
2 picked up by the ISO's meters, so the ISO essentially  
3 would only be seeing half of the transaction? An item  
4 specifically referring in the middle of the page on 134,  
5 where there is a statement "we are riding in a highway  
6 lane not owned by ISO, owned by," I guess m-o-n?  
7 A Muni.  
8 Q By muni?  
9 A LADWP. In other words, we were buying  
10 transmission from LADWP making more efficient use of the  
11 transmission system.  
12 Q But the statement "we are riding in a highway  
13 lane not owned by ISO," what significance is that?  
14 A In other words, we weren't taking service from  
15 the ISO.  
16 Q Would that -- how would that impact on what the  
17 ISO understood was going on, if at all?  
18 A I don't know how that impacts.  
19 MR. COLLINS: Did you have the understanding  
20 that you had an arrangement worked out with the LADWP?  
21 THE WITNESS: I think they had a tariff. LADWP  
22 had a tariff. I think we took service under the tariff.  
23 BY MR. COLLINS:  
24 Q So you would just call them up directly and ask  
25 for transmission?

---

172:1 A Yes, I think we had a service agreement with  
2 them. In fact, I might have negotiated the service  
3 agreement, because I regularly did little service  
4 agreements. You know, the pro forma service agreements.  
5 I think I negotiated on that one. Unfortunately, I just  
6 don't have a lot of information about these trading  
7 strategies, because I didn't really understand them very  
8 well at the time and thought that if I had to go back and  
9 analyze them, I would have an opportunity to go back and  
10 quiz the individual traders and talk to them about the  
11 details. I was never called upon to do that, so I was  
12 just trying to write the stuff down as fast as I could.

13 BY MR. COLLINS:

14 Q At the very bottom of MH 13, the notes say "we  
15 use transmission no one else was using, LADWP"?

16 A Right.

17 Q Do you know why no one else was using it?

18 A No, I don't. There is one thing. I have to  
19 take a guess. The flow in the west is usually  
20 counterclockwise. And so maybe a lot of the power was  
21 flowing into California and being, and serving the load  
22 there and not going farther in a counterclockwise  
23 direction. I don't know. Just a guess.

24 BY MR. ROSENBERG:

25 Q So your testimony today is after this October 3

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173:1 meeting, you wrote some notes, but you can't reconstruct  
2 in your own mind what the strategies were based on the  
3 notes?

4 A I really can't.

5 Q Did Tim Beldon refer to them specifically as  
6 strategies? Did he introduce them as strategies?

7 A Yes.

8 Q What did he say about this one, these are the  
9 strategies that we have used?

10 A Yes.

11 Q Did he identify what desks used what strategies  
12 or what was involved?

13 A He did. He had the traders come in and talk to  
14 us about which ones of the desks had done, had developed  
15 which strategies or who had developed which strategies.

16 Q Is that reflected in your notes?

17 A It's not reflected in my notes.

18 Q Do you recall who was responsible for the Death  
19 Star?

20 A All I remember was that there were a couple of  
21 the strategies that the realtime desk developed and there  
22 was one guy on the realtime desk in particular who  
23 developed one of them.

24 Q Was that Mr. Driscoll?

25 A It wasn't Driscoll.

---

174:1 Q Is that Mr. Forney?

2 A No, it wasn't Forney. Maybe Driscoll did  
3 develop one of the other ones. It does seem like he came  
4 into that meeting, but unfortunately, I didn't write down  
5 who developed what.

6 Q Well, if you were to go back and try to figure  
7 it out, wouldn't it have been helpful for you to have  
8 known who to go back and talk to or would you have always  
9 talked to Mr. Beldon?

10 A I just figured if I had to go back and  
11 reconstruct this, if I had to figure out who had done what  
12 for purposes of investigating this, that I would just go  
13 ask Tim who to talk to.

14 Q Was there a directive not to put --

15 A At the time it might have been in my head, you  
16 know, who these people were. I just didn't need to write  
17 it down and now I can't remember.

18 Q Was there a direction not to associate a  
19 particular strategy with a trader?

20 A No, there wasn't. If there was any kind of a  
21 direction like that, people would have told me not to take  
22 notes.

23 Q Well, but there's a lot of things that are  
24 kooky about this thing.

25 BY MR. COLLINS:

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175:1 Q On MH 14 where your notes indicate at the top  
2 there, "would have to get power, so don't do during stage  
3 2." Do you know what that is referring to?  
4 A No. I don't.  
5 Q Stage 2, I'm guessing, refers to the  
6 California?  
7 A Emergency.  
8 Q ISO stage 2?  
9 A Right. Oh, there is a statement next to those  
10 two things that says "gets cut in phase 2." I don't know  
11 if that would be stage 2 or not.  
12 Q "Stage 2" might refer to phase 2?  
13 A Yes, I suppose.  
14 BY MR. ROSENBERG:  
15 Q Can you tell us what this version of Death Star  
16 involved?  
17 A Well, it says "schedule firm import and  
18 schedule nonfirm export to avoid ancillary service risk."  
19 BY MR. ROSENBERG:  
20 Q Because it wouldn't be ancillary service  
21 charges associated with nonfirm; is that correct?  
22 A That sounds right.  
23 Q So that, as you understood this strategy, did  
24 it involve a misrepresentation as to the nature of the  
25 generation being firm or nonfirm?

---

176:1 A I don't know whether it was a misrepresentation  
2 or whether of whether the generation was firm or nonfirm.

3 Q Direct your attention to, "if it doesn't get  
4 cut, no power flows," what does that mean to you, toward  
5 the middle of the page?

6 A Unfortunately, I don't have a noun there. I  
7 guess that means cut by the ISO.

8 Q So this strategy suggests to you that  
9 congestion payments would be made even though no actual  
10 congestion was relieved?

11 A It says "collect congestion charges."

12 Q And if you read that two lines down, "if it  
13 doesn't get cut, no power flows." So did Mr. Beldon  
14 explain how you could collect congestion charges if no  
15 power was flowing?

16 A Well, you know, that is what it sounds like,  
17 now that you have explained it to me. I'm not sure what  
18 "sometimes paying more than the CAP" means or "sometimes  
19 agree to cancel trans" means, whether it's transaction --

20 Q I don't want to suggest to you what it means,  
21 but the plain reading suggests that it was worth, that  
22 there was a value, that there was a margin in paying, in  
23 getting congestion payments even if you had to pay  
24 over-the-counter price. Is that a fair reading?

25 A I guess that's a fair reading.

---



177:1 Q Is that what Mr. Beldon described this strategy  
2 as accomplishing?  
3 A I don't really know how the strategy worked. I  
4 have tried to read through my notes as best I can, but I  
5 can't say with confidence that I understand how it works.  
6 Q Okay. Then below that it talks about "they  
7 also do Coral"?  
8 A Coral was a trading company and Powerex is a  
9 trading company. Canadian.  
10 Q Do you understand that part of this, that  
11 whatever the strategy is, Coral and Powerex also engage  
12 in?  
13 A Yes, I'm assuming that is what that note means.  
14 Q Then below that, is there once again an  
15 explanation of the potential defense?  
16 A Yes. And also the hour-ahead play and I assume  
17 that means it's something that is done hour ahead. I  
18 don't know what "liquid versus ex post price" means.  
19 Q And Powerex.  
20 BY MR. BRUNO:  
21 Q When you are reading "liquid versus ex post  
22 price" and then it says "tariff response," do you know  
23 what tariff response is all about?  
24 A I don't know what that means.  
25 Q Do you know --

---

178:1 A I know what liquidity means and I think the ex  
2 post price was a reference to the fact that it was, that  
3 the price was calculated, I guess after the fact. I get  
4 those terms mixed up. Ante versus ex post.

5 BY MR. ROSENBERG:

6 Q At the time you heard the strategy described,  
7 did it raise any concerns from an ethical or legal  
8 standpoint?

9 A Like I said, when I heard all of these  
10 strategies, I wanted an evaluation done of whether they  
11 violated the tariff.

12 Q And did you ever receive any -- conduct any  
13 kind of an effort to answer that question?

14 A I was not the person who was tasked with  
15 undertaking that effort.

16 Q Do you know who was?

17 A I believe Steve Hull was supposed to do that.

18 MR. BRUNO: Could you -- do you know why you  
19 weren't tasked with that job as well?

20 THE WITNESS: Probably because there were about  
21 one pleading or one FERC filing a day coming in at that  
22 point. I mean things really started to get nuts at that  
23 point and I don't know if you have seen how many pleadings  
24 we filed, but December was like a fever pitch month. That  
25 was absolutely the worst. And November, as I recall, was

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179:1 pretty bad. And there were a lot of subpoenas being slung  
2 around at that point so I was making sure people were  
3 aware of those. And the ISO had made a number of files in  
4 addition to that, and those were really my bread and  
5 butter. That is what I did.

6 BY MR. BRUNO:

7 Q It just seems that based on your experience and  
8 your background, that you certainly knew tariff and FERC  
9 regulations probably better than Mr. Hull, who was a bit  
10 younger than you; right?

11 A Right. I wanted to do it. I really was  
12 curious about it. But I guess, I don't remember how we  
13 decided it, but I think it was Tim and I both wanted it  
14 done. That was my recollection. Somehow Steve got stuck  
15 doing it.

16 MR. COLLINS: Do you recall what Tim Beldon's  
17 view was as to whether it was violating the tariff? Did  
18 he have a view, do you know?

19 THE WITNESS: I don't recall whether he had a  
20 view. I think the one thing that he was always quick to  
21 point out was whether or not there was a penalty for doing  
22 it under the tariff. And I think the other thing was that  
23 the California ISO tariff was very unclear in a lot of  
24 places, and so I think his assumption was that there was  
25 wiggle room to say what they had done was legal.

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180:1 BY MR. ROSENBERG:

2 Q On that note when you get to MH 15, you put the  
3 total of -- I guess the total risk on this one at  
4 10 million, but you used the word "schemes"?

5 A Yes, I don't know, there is like a 5 million  
6 above that and then a 10 million. Maybe that is for like  
7 the second Death Star and maybe it's 10 million for the  
8 total.

9 Q I'm focusing on the word "scheme." Was that  
10 your word or Mr. Beldon's word?

11 A I don't remember.

12 Q Is that a word you use?

13 A Yes. I would say that it's because I was being  
14 inarticulate.

15 Q Did it reflect your state of mind at the time  
16 as to what you were hearing, that raised issues?

17 A No.

18 Q Did you mean to convey to yourself in your  
19 notes some kind of a pejorative meaning to these  
20 strategies by using the word "scheme"?

21 A No. I was trying to write as fast as I could.  
22 Really seriously that's all I was trying to do. Was just  
23 get the stuff down on paper.

24 Q Below that you said "the ISO is not supposed to  
25 use nonfirm." Does that tell you that the reference

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181:1 earlier where the arrows are was that nonfirm export was  
2 being used as part of this strategy?

3 A I guess, I don't know how that worked. I guess  
4 I thought they were talking about LADWP at that point,  
5 which if they were selling nonfirm, then it wouldn't be  
6 the ISO, but it looks like from the diagram that it says  
7 ISO there.

8 Q So did Mr. Beldon express to the group the view  
9 that they had violated this provision of the tariff by  
10 using nonfirm export?

11 A I'm sorry, but there isn't any context there  
12 for me to answer that question, and I don't recall.

13 Q Well, let me direct your attention to the top  
14 of 14, and does that create a context, the second and  
15 third line?

16 A Unfortunately, there are no nouns there, so it  
17 doesn't say who is doing what, who we are getting the  
18 nonfirm export from.

19 Q And there is nothing on the shorthand that  
20 allows you to make that determination?

21 A Well, on the diagram it looks like it's flowing  
22 north, the export is flowing north. And so that is where  
23 it looks like it's nonfirm. Now, I don't know if that was  
24 ISO transmission up there or whether that was the munis.  
25 There's just so many details about this that I can't tell

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182:1 you. I just can't, I don't know where to start to answer  
2 your question, because I just don't have the details.  
3 BY MR. BRUNO:  
4 Q Does looking at this help you to recall who  
5 might be the author of these particular strategies?  
6 A If you could name some of the people who were  
7 on the realtime desk, I know that I would remember one of  
8 the people who thought up one of the strategies, but I  
9 couldn't tell you which one it was.  
10 Q John Forney?  
11 A No, it wasn't John.  
12 Q Mike Driscoll?  
13 A I don't think it was John. As I said earlier,  
14 Driscoll might have thought of one, but there is another  
15 guy.  
16 Q Ryan Slinger?  
17 A No.  
18 Q Was Sean Crandall on the realtime desk?  
19 A No, he was a day-ahead trader.  
20 Q Diana Schulte?  
21 A She was a day-ahead trader.  
22 Q While Mr. Rosenberg is trying to find some more  
23 names, could I ask you about another issue that may be  
24 relevant to this, but not reflected in your notes. Were  
25 you familiar with the process for how a trade was actually

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183:1 completed, in other words the back office kind of things?

2 A Not really.

3 Q For example, when a trader executed a trade,  
4 say, for example Enron, on line, there was a process for  
5 that trade to be reflected in a database that produced an  
6 invoice; correct?

7 A Sounds good.

8 Q Hopefully I'm trying to, if my question will  
9 help, elicit information that you are knowledgeable of.

10 A The only thing that I know of was that some  
11 aspects of our transactions were more computerized than  
12 other aspects of them were. Some, I remember Tim saying  
13 that some things had to be hand typed in to the computer  
14 and other things, other information was kind of  
15 computerized, routed around the floor so it didn't have to  
16 be entered into each one of the programs. And with  
17 respect to which pieces of information, I don't know.

18 BY MR. ROSENBERG:

19 Q I have a list now. John Forney?

20 A No.

21 Q Jesse Bryson?

22 A No.

23 Q Monica --

24 A No.

25 Q -- Causholl. Michael Driscoll?

---

184:1 A Driscoll might have thought of one or two, but  
2 there's one guy I know who definitely did.  
3 Q Ryan Slinger?  
4 A No.  
5 Q Bill Williams, III?  
6 A No. I don't think it was Bill.  
7 Q Colin Whitehead?  
8 A No.  
9 Q Geir Solberg?  
10 A That's the guy.  
11 Q That's the guy that did what?  
12 A I don't remember which one of the trades or  
13 which one of the strategies, but I believe he thought of  
14 one of them. Geir.  
15 Q Did he explain it?  
16 A I don't recall.  
17 Q So what are you basing it on, your statement  
18 that you believe he is the one who developed one of the  
19 strategies?  
20 A I believe Tim was holding him up as being an  
21 innovative trader because he thought of this creative  
22 trading strategy. He was kind of a new guy on the desk.  
23 He had been in fundamentals before, and that he came up  
24 with something that made money.  
25 Q Holden Salisbury?

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185:1 A That's the only one I recall is just Geir,  
2 about coming up with that one transaction. I'm pretty  
3 sure that he created one of these.  
4 Q Did the name Chris Mallory come up?  
5 A He sat on the desk.  
6 Q On which desk?  
7 A On the trading desk.  
8 Q Do you know which?  
9 A No, I can't remember.  
10 Q Carla Hoffman?  
11 A Carla was in realtime, I'm pretty sure.  
12 Q Jeff Richter?  
13 A Richter traded California.  
14 Q Bob Badeer?  
15 A Bob Badeer traded California as well, but I  
16 think he traded the power exchange more elongated deals,  
17 longer dated deals.  
18 Q Matt Motley?  
19 A I think I told you earlier someone else's name  
20 as trading Southwest, but I think Motley traded Southwest.  
21 Q Along with Tom Alonso?  
22 A Yes, they were the two -- no. Tom Alonso, and  
23 then there was another guy who also traded the Southwest.  
24 Q Mark Fletcher?  
25 A Yes.

---

186:1 Q I'm sorry, Mark Fischer?  
2 A Mark Fischer, that's right.  
3 Q F-i-s-c-h-e-r?  
4 A That's right.  
5 Q Do you know, did you ever talk to Diane  
6 Schulte?  
7 A Yes.  
8 Q Did she ever come to you for any advice on  
9 trading issues?  
10 A I know she came and asked me about something,  
11 but I can't recall what it was.  
12 Q Was there one time that she came to you or did  
13 she come to you several times?  
14 A Well, I think that I worked with her sometimes  
15 on some issues that were being addressed by the market  
16 interface committee of the WSCC. So I worked with her on  
17 other things, but seems like there was one time she came  
18 to me with some question.  
19 Q Was that question about affiliates?  
20 A Well, I did work with her on filing that  
21 filing, about being able to do trades with Portland  
22 General Electric.  
23 Q Do you recall any other tiles that Schulte came  
24 to you?  
25 A Seemed like there was some other issue she came

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187:1 to me about, but I can't recall.

2 Q Was she a trader?

3 A Yes, she was. She was a day-ahead trader.

4 Q Did she trade her own book?

5 A I know she had an area that she traded, but she  
6 worked for Tim Beldon.

7 Q Who did she report to?

8 A She, I think, reported to directly to Tim

9 Beldon.

10 Q What was Sean Crandall in relation to that  
11 reporting relationship, between Schulte and Beldon?

12 A I don't think there was anything between them.  
13 I think they were both direct reports.

14 MR. BRUNO: Do you know how many people  
15 reported directly to Tim.

16 THE WITNESS: Reported directly to Tim?

17 BY MR. BRUNO:

18 Q Well, for example, you said Mr. Crandall and  
19 Ms. Schulte reported directly?

20 A I think they did. I think they reported  
21 directly to Tim. Let's see. The head of the realtime  
22 desk reported to Tim. The head, whoever it was, must have  
23 reported directly to Tim. The head of scheduling reported  
24 directly to Tim. I don't know if, you know, among the  
25 day-ahead traders, if they had a manager or not.

---

188:1           Oh, I know who the head of the mid-marketing  
2 was. That was Chris Foster. I don't know who was the  
3 manager of the traders. Whether they reported directly to  
4 Tim, I can't recall.

5           And I don't know what the relationship was of  
6 others who worked on the trading floor, like the  
7 fundamentals group, whether they reported to Tim. I  
8 suspect they did, but then we had a lot of other back  
9 office staff there and I don't think they reported to Tim.  
10 Some of the risk people or the financial people. I'm a  
11 bad person to ask, because I didn't tend to focus on those  
12 kind of things. They weren't really my group. I worked  
13 for a different corporation.

14           BY MR. ROSENBERG:

15           Q   Moving to, it's written as number 2 on page MH  
16 0015, "nonfirm export." Do you know what this strategy  
17 involves?

18           A   Well, it says in the right-hand column what I  
19 think Tim said the strategy was, which was, I'm a little  
20 bit confused about the reference. I think it's at  
21 counter-close, but get paid counterflows and congestion  
22 payment, looks like it says with COB, no transmission or  
23 ancillary service, but pay export charge, the grid  
24 administration wheel out and spin and nonspin.

25           Q   Does that suggest how -- it says on top of that

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189:1 column "revenue," but probably what the revenue flow is,  
2 netted with a profit after all these charges?

3 A Except that I had a little pointer underneath,  
4 between the number 1 and before the letter G, which looks  
5 like "revenues," somehow went into number 1. But I don't  
6 know what that means.

7 Q Well, stripped to its essentials, does that  
8 involve representing to the ISO that firm energy had been  
9 scheduled when in fact nonfirm energy was scheduled? And  
10 I ask you to refer to the first line on page 16.

11 A And the question was again?

12 Q Does this suggest to you that nonfirm export  
13 was being scheduled and Enron was collecting for  
14 congestion charges when they should not have collected  
15 because they were only supposed to be paid if it was firm  
16 export? In other words, there was a misrepresentation as  
17 to the nature of the transmission, of the generation. And  
18 I offer this one because it seems, and it's a conclusion  
19 on my part, seems to be very clear that he is suggesting  
20 at the very least this nonfirm is being used whereas  
21 congestion payments are only received for the firm  
22 generation is used?

23 A Well, it says at the top of the page "shouldn't  
24 pay congestion charge on nonfirm."

25 Q So if this strategy involves using nonfirm

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190:1 export, does it involve a misrepresentation to the ISO?

2 A You know, I wasn't hired to advise Enron on  
3 state law, and I was only advised, or hired to advise them  
4 on FERC, and so I don't know whether this was a  
5 misrepresentation. And I don't know if that  
6 misrepresentation, if there had been a misrepresentation,  
7 that would have been a violation of state law. And as I  
8 said to you before, I didn't really evaluate whether any  
9 of these strategies violated the tariff.

10 Q Now, on this one, is there any justification  
11 like we saw for the other two on how it didn't influence  
12 the market necessarily in a negative way?

13 A Unfortunately, the bottom of the page on page  
14 15 is cut off. So I don't know what it says.

15 Q I think we have a copy that may have more on  
16 it.

17 BY MR. BRUNO:

18 Q See if this helps refresh your recollection.  
19 Unfortunately, it doesn't look like it's complete.

20 A Looks like it says "loophole."

21 MR. ROSENBERG: "Schedule three hours ahead,  
22 market runs two hours ahead."

23 THE WITNESS: And "cut loophole. ISO shouldn't  
24 pay congestion charge on nonfirm." That is what it says.

25 BY MR. ROSENBERG:

---

191:1 Q Okay. Does that make it any clearer to you?  
2 A It says what it says.  
3 Q Now, based on your notes and you were there at  
4 the meeting and you took it, does this suggest to you that  
5 Enron was being paid for congestion relief using nonfirm  
6 energy when the congestion relief payments mandated that  
7 firm energy be used?  
8 A I don't really know what the tariff said. I  
9 know what this note says that the tariff says.  
10 Q And who said this?  
11 A Tim Beldon said this. Explaining the trading  
12 strategy.  
13 Q And you testified earlier that Tim Beldon was a  
14 very well-versed economist and trader and was extremely  
15 knowledgeable?  
16 A That's true.  
17 Q Did you react as a lawyer to this statement?  
18 A I wrote it down, as I said, as quickly as I  
19 could.  
20 Q So what did you understand after this October 3  
21 meeting your role to be in connection with the information  
22 that was being given out on October 3?  
23 A I didn't recognize that I had any role at  
24 following this October 3 meeting with respect to this  
25 information.

---

192:1 Q Did you ask what was expected of you after  
2 October 3?

3 A I believe that I talked to Tim about whether or  
4 not I was going to write a memo trying to understand  
5 whether these trading strategies violated the tariff and  
6 was told that I wasn't going to, that Steve was going to  
7 do it.

8 BY MR. BRUNO:

9 Q Did you understand that anybody besides Steve  
10 had any role after this meeting?

11 A No.

12 Q What about Mr. Yoder?

13 A Well, Christian reviewed whatever Steve worked  
14 on, so that was my understanding, that he was the one who  
15 hired him and that they worked together.

16 BY MR. ROSENBERG:

17 Q Was Mr. Hull, to your knowledge, hired to do  
18 this review that you just told us about after the October  
19 3 meeting or was he already on board?

20 A He was already on board.

21 Q And when was the idea that he would look into  
22 these strategies and see if they complied with the  
23 applicable state laws?

24 A Seems like it was right after the meeting,  
25 while we were sitting, you know, when we went back out to

---



193:1 the trading floor.

2 Q Did Mr. Yoder have a reaction to what was being  
3 said at the meeting, to you?

4 A I don't recall. You know, I may have at the  
5 time had my own reactions about it. As to whether I  
6 expressed concern about it or not, I might have written an  
7 e-mail about it expressing concerns. I just don't  
8 remember. I probably didn't write an e-mail given that  
9 Richard said that we weren't supposed to. I might have  
10 done that the day before he told us not to write any  
11 e-mails.

12 The thing about it was that I think there were  
13 a lot of times when I was a bit more reactionary than  
14 others were. I was -- because I had worked at FERC, I was  
15 a lot more sensitive with whether things violated the  
16 tariff than others were. So I was like hypersensitive  
17 when I heard these things. I was wondering what they were  
18 and how they worked and whether they were -- whether they  
19 violated the tariff.

20 Q On a general level, do you know why the ISO  
21 needs information to be accurate, just from your knowledge  
22 of the way things work?

23 A Well, it runs the market, so it has to have  
24 information that is accurate.

25 Q Isn't that accuracy important to ensuring the

---

194:1 reliability of the grid?

2 A Yes, I'm sure that accuracy is important to  
3 ensuring the reliability of the grid.

4 Q So would it be fair to say that the ISO relies  
5 on getting accurate information on its schedules?

6 A Yes.

7 Q And if the information is not accurate, then it  
8 undermines that function?

9 A I think that is indicated in my notes in here,  
10 where Tim said that perhaps one of the things that they  
11 did may have undermined reliability somehow.

12 Q Could you point that out?

13 A I think it's on that page 3 of the first day,  
14 the meeting just with the smaller group of people, or that  
15 could have been on the second where, he said cutting  
16 strategy most problematic for us, ISO reliability problem  
17 had to DEC. And on page 4, only reliability issue time  
18 spent on it.

19 You know, the other thing was, as I understood  
20 it, the utilities in California were underscheduling their  
21 load, and so as I indicated before, to the extent that we  
22 were overscheduling our load or something of that nature,  
23 just because we were providing -- if we were providing the  
24 wrong information to the ISO doesn't mean that it would  
25 necessarily hurt the reliability.

---

195:1 BY MR. ROSENBERG:

2 Q But it certainly had the potential, either way,  
3 to go either way?

4 A Well, I don't know.

5 Q In your familiarity with FERC regulations and  
6 the tariffs that you have worked on, are accurate  
7 representations generally required?

8 A I don't know whether they are required in the  
9 ISO tariff or not.

10 Q In others, other tariffs that you are familiar  
11 with?

12 A I can't think of any examples of that right off  
13 the top of my head. It seems like the kind of thing that  
14 you could easily put into your tariff. It could be in  
15 there.

16 (Recess.)

17 BY MR. ROSENBERG:

18 Q Going back to Exhibit 5, is there any strategy  
19 listed in the pages dealing with strategies coming out of  
20 that October 3 meeting that you are confident you could  
21 explain to us today?

22 A No.

23 Q So the value of your notes is that of the  
24 scrivener?

25 A Right. Exactly.

---

196:1 Q For these purposes. Is there anywhere on these  
2 pages where you raise concerns similar to the ones you  
3 raised about the issue of reliability of the grid? Could  
4 you point us to any other places where you may have raised  
5 issues?

6 MR. REED: Can you be more specific?

7 BY MR. ROSENBERG:

8 Q I can't. I'm trying to cut through time. I  
9 could go through it page by page, but if you can direct me  
10 to any page based on your familiarity with the document?

11 A I wasn't taking notes on issues that I was  
12 raising. I was simply taking notes on what Tim was  
13 saying.

14 BY MR. BRUNO:

15 Q Let me follow up on that for a minute. Did  
16 your notes reflect anybody else and any discussion about  
17 anybody other than Tim Beldon?

18 A Like I said, some of the traders came in and  
19 explained some of the transactions at some point.  
20 Unfortunately it's not marked in here when they came in  
21 and out.

22 Q Subsequent to you making these notes, you  
23 probably had time to look at them, more time that you  
24 probably would care to look at them, but is there anything  
25 now that you can point to that would help us to

---

197:1 differentiate between Mr. Beldon's voice that is being  
2 reflected here and somebody else's?  
3 A No, I really can't.  
4 Q Let me see if I can find a page number for you.  
5 I'm trying to do this more efficiently. I'm trying to  
6 find this page. It says effect on bearing --  
7 A Price.  
8 MR. REED: Page 22.  
9 BY MR. BRUNO:  
10 Q It seems to refer to the prior page, page 21,  
11 at the bottom says FTR 10 million spent, and made, appears  
12 to be 40 million. Do you see that?  
13 MR. REED: Where are you?  
14 BY MR. BRUNO:  
15 Q Bottom of page 21, indicates FTR 10 million  
16 spent.  
17 A That page is out of order here.  
18 MR. REED: My 21 doesn't say that.  
19 BY MR. BRUNO:  
20 Q Okay. Let's see if we can find that. Well,  
21 rather than have me try to put back your notes, these are  
22 apparently out of order then; is that right?  
23 A Right.  
24 Q Then my question won't help you understand this  
25 part. Looking here on page 22, which counsel properly

---

198:1 found, at the top there it says effect on, something,  
2 price?

3 A Clearing price.

4 Q Clearing price. And you say, "we could say  
5 just optimizing portfolio, might have crossed ourselves  
6 out" sometimes?

7 A Right.

8 Q We didn't do a very good job. What are you  
9 referring to?

10 A These are Tim's defenses.

11 Q To what?

12 A I'm not sure if he was talking about a specific  
13 transaction there or in general. It seems to me that was  
14 sort of toward -- well, I guess he was. At least in terms  
15 of where it is in the notes. Looks like he is talking  
16 about the previous transactions.

17 Q Turning to MH 0021, it seems to talk about  
18 shift load and it says dovetailed with our FTR?

19 A Subject to scrutiny.

20 Q Is that what he is referring to?

21 A I'm sorry, but I just can't remember.

22 Q Okay. On the left-hand column there with a  
23 star it says impact of price on whole system is the  
24 problem. Then it says 1000 FTR out of 1500 option, 2200  
25 path. Is he referring to EPMI ownership of FTR on the

---

199:1 P-26 path?

2 A I believe he is talking about our ownership of  
3 FTRs, and the schematic X, it looks like it says P-26. I  
4 don't know what P-26 it is.

5 Q Do you know what market surveillance set will  
6 be watching?

7 A Yes.

8 Q Do you know what that is about?

9 A The market surveillance group of the ISO said  
10 that they would be watching our use of our FTRs because we  
11 had a thousand out of 1500.

12 Q Do you know anything more about it other than  
13 this note that is indicated here in this document?

14 A I really don't.

15 Q Would you refer to MR 0022, the next page,  
16 about midway down it says e-mail, then you have an arrow  
17 and it says "Enron scheduling knows ink in rev, probably  
18 deleted." Do you know what that is about?

19 A No. It doesn't make any sense.

20 Q So the reference there to "e-mail," is it  
21 referring to an e-mail sent to Enron or from Enron to  
22 somebody else?

23 A I'm sorry, I have no idea what that is.

24 Q The best of your recollection, this is again  
25 referring to something Tim Beldon said at the time?

---

200:1     A    This was all Tim talking in here. I know for a  
2 fact that he was the one who mentioned the defenses that  
3 were earlier on the page, so -- but other than that, I  
4 can't tell you.

5           BY MR. ROSENBERG:

6     Q    In terms of those defenses where he says no one  
7 can prove, given complexity of portfolio, what did you  
8 understand that to mean at the time?

9     A    I think what he was saying was, we were asking  
10 if somebody could see these transactions just by looking  
11 at our portfolio, without some kind of a road map to piece  
12 it together, that they wouldn't be able to ferret it out  
13 unless we pointed it out to somebody, unless we pointed  
14 the transaction out to somebody. I think that is what he  
15 means.

16          BY MR. ROSENBERG:

17     Q    An he didn't say no one can understand it. He  
18 used his word no one can prove it?

19     A    Right.

20     Q    But that suggests to you that there was some  
21 misconduct or chicanery?

22     A    No, as I said, I think what he was saying was  
23 if we just show -- you know, the regulators just get our  
24 portfolio in response to a data request, they are not  
25 going to be able to figure out this transaction. They are

---



201:1 not going to see it.

2 Q Is that the transaction referred to above, if  
3 we weren't causing congestion, just increasing?

4 A I think it was referring to the shift load one,  
5 that is right above it, whatever that was.

6 Q Right. And when he is saying that, he is  
7 explaining that they weren't causing the congestion, they  
8 were increasing it, did that suggest to you that he was  
9 referring to something that couldn't be proven, which  
10 would be adverse to the company or would look bad?

11 A Well, the increasing congestion is just  
12 something that happens when you load up a line. I mean, I  
13 don't know, it's not really related to whether or not the  
14 PUC could see this transaction or not.

15 Q But if you own the FTRs, a thousand out of --

16 A 1500.

17 Q -- out of 1500 auctioned out of 2300, and you  
18 use those FTRs to relieve congestion, doesn't it stand to  
19 reason that if you increase congestion those FTRs become  
20 more valuable?

21 A Yes.

22 Q Is that what is being referred to here?

23 A Right.

24 Q Is it fair to say the strategy for relieving  
25 congestion which was done out of the realtime desk

---

202:1 depended on use of FTRs which were owned by other desks?

2 A You made quite a few assumptions there.

3 Q Let's take them one at a time.

4 A Okay.

5 Q Didn't know I was even conversant enough to  
6 even make assumptions.

7 MR. REED: Maybe you are.

8 THE WITNESS: You said the FTRs were owned by  
9 the realtime desk.

10 BY MR. ROSENBERG:

11 Q No, no, the strategy, the shift load strategy,  
12 did that come -- was that executed by the realtime desk?

13 A I don't know whether that was or not.

14 Q The FTRs were owned by different desks, is that  
15 correct, if you know?

16 A I can't verify whether they were or not.

17 Q Well, if Enron was increasing congestion and it  
18 could relieve congestion based on its -- by using its  
19 FTRs, then doesn't it stand to reason that increasing it  
20 would have a net benefit to Enron?

21 MR. REED: Are you asking her to follow your  
22 logic, or do you have an understanding she might have had  
23 at the time?

24 BY MR. ROSENBERG:

25 Q First give us your understanding at the time.

---

203:1     A    My understanding is that the California FTRs  
2    were financial, in that we were paid for the rights as  
3    compared to them being a physical right.  And so if we  
4    were paid based on congestion increasing, then it stands  
5    to reason that we would have been paid more based on our  
6    financial earnings off the congestion.  Is that what you  
7    are saying?

8     Q    I think so.  At least as to your understanding,  
9    did you feel that any of these statements on 0022  
10   reflected an attempt by Mr. Beldon to ensure that there  
11   had been misconduct and misrepresentations or any other  
12   kind of illegal gaming, but that he was confident that no  
13   one could prove it given the complexity of the  
14   transactions?  As you sat and wrote this.

15    A    What was clear to me about his statements was  
16   that they were his assumptions about what were defenses to  
17   what was done, and in terms of whether I thought that we  
18   had done anything that required us to use those defenses,  
19   I can't tell you what I thought at the time about whether  
20   there had been some tariff violation that required us to  
21   use those defenses.

22    Q    Well, the cumulative effect of expressions like  
23   no one can prove?

24    A    No one could prove the transaction, no one  
25   could prove that the strategy, but that doesn't mean that

---

204:1 no one could prove that we violated the tariff, because we  
2 hadn't established whether we violated the tariff, to my  
3 knowledge. That is what I wanted to know, whether we  
4 violated the tariff.

5 Q Did Mr. Beldon offer any opinion as to whether  
6 they had violated the tariff at any point in his  
7 presentation?

8 A I think with respect to this transaction, he  
9 never said that he thought that there was a violation of  
10 the tariff.

11 Q With respect to any transaction discussed back  
12 then?

13 A In fact he also mentioned that someone could  
14 submit a counterflow, but that they just didn't.

15 Q Okay. Now, I will ask the question I asked  
16 when I interrupted you. At any point in his presentation  
17 on October 3, did Mr. Beldon make the remark that they had  
18 been -- that Enron had violated any tariff?

19 A I think that that is why Mr. Beldon and I  
20 wanted analysis of whether there was a tariff violation,  
21 and it was my recollection after the meeting that he  
22 wanted that analysis done. I don't think that he assumed  
23 that there had been a tariff violation.

24 Q Okay. Moving to page 0023, the term of the  
25 transaction is termed as Get Shorty and then you have 5 M,

---

205:1 that refers to 5 million again?

2 A Yes.

3 Q As you look at the description of the  
4 transaction, do you know generally what this refers to?

5 A I think the strategy is pretty much laid out  
6 there. It says submit schedule in the day-ahead and then  
7 submit zero in the hour-ahead, and this says concerning  
8 ancillary services, we schedule into California for  
9 others.

10 Q How does this strategy make money?

11 A I don't know.

12 Q Looking further down that column, it refers to  
13 ISO doesn't know about. What doesn't the ISO know about?

14 A I'm sorry, but I can't figure that out.

15 Q Turning to the next page, does that help you  
16 understand this?

17 A What the next page is, tell the customers that  
18 we are scheduling coordinators for, to tell us what you  
19 have done and give honest answers. And it says don't act  
20 in concert with the rest. We don't coordinate across  
21 plants. I guess that is -- this looks like it isn't an  
22 order.

23 Q Right. This looks like it's more like a  
24 response to the subpoena; is that correct?

25 A It does.

---

206:1 Q Is it possibly suggesting what customers will  
2 be told with respect to the subpoena?  
3 A The customers didn't answer the subpoenas. We  
4 did.  
5 Q So this is to tell customers what you are  
6 giving?  
7 A Right.  
8 Q Give honest answers to the customers, is that  
9 what it refers to?  
10 A Right.  
11 Q So this page, we believe is out of order?  
12 A Except the thing that is funny about this is it  
13 says bought power cheap a long time ago and sold expensive  
14 based on our fundamentals analysis, and I recall that as  
15 being a defense again, that Tim said.  
16 Q Is that what you were going to tell your  
17 customers?  
18 A No. It was a defense to the CPUC,  
19 fundamentally that we made money because we were good  
20 business people.  
21 Q Okay.  
22 A Buy low, sell high, you know.  
23 Q Right. Below that, there is a statement, ISO  
24 and PX won't know much, won't have how much we bought it  
25 for. They don't have our book-outs. What does that

---

207:1 statement refer to?

2 A Okay. I didn't know throughout, when I was  
3 writing all of the notes, how all of the book-outs worked.  
4 I had seen the schedulers do book-outs. And as I  
5 discovered later -- and I don't know what the timing of it  
6 was, and unfortunately I don't know what the timing of  
7 this page of these notes are, might have been 10/3, might  
8 have been subsequently. But what I learned was our  
9 traders do the book-outs, did the book-outs or outside of  
10 California, and California ISO did the book-outs for  
11 inside California.

12 And so it says, you know, ISO and PX won't know  
13 how much we bought it for because they don't have our  
14 book-outs. They don't do the book-outs for outside  
15 California. That is what that means.

16 Q So in a sense they wouldn't have a picture of  
17 the full economic picture?

18 A Right.

19 Q But you don't know what section of the rest of  
20 the notes this refers to?

21 A No, I don't.

22 Q Is it still, to the best of your recollection,  
23 Tim Beldon talking?

24 A He would know. He would be the one who would  
25 know the answer to that question. Really. None of the

---

208:1 attorneys would know the answer to that question.

2 Q So was the October 3 meeting essentially Tim  
3 Beldon talking and bringing the different?

4 A People in and talking about what the trading  
5 strategies were, except for when we were talking about  
6 litigation strategy.

7 Q And then others would get involved?

8 A Right.

9 MR. ROSENBERG: I think this is a good breaking  
10 point.

11 (Whereupon, at 5:47 p.m., the deposition was  
12 adjourned, to be reconvened at 9:30 a.m., on Wednesday,  
13 July 3, 2002.)

14 C O N T E N T S

15 WITNESS EXAMINATION

16 MARY C. HAIN

17 by Mr. Rosenberg 4

18 E X H I B I T S

19 EXHIBIT NUMBER IDENTIFIED

20 Hain 1 4

21 Hain 2 4

22 Hain 3 4

23 Hain 4 29

24 Hain 5 41

25 Hain 6 44



209:1	Hain 7	62
2	Hain 8	65
3	Hain 9	65
4	Hain 10	96
5	Hain 11	136
6	1	

Hain, Mary - July 03, 2002 00:00:00 a.m. Volume: 2

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1:1 UNITED STATES OF AMERICA  
2 BEFORE THE  
3 COMMODITY FUTURES TRADING COMMISSION  
4 -----x  
5 IN THE MATTER OF: : Commission Docket Number  
6 ENRON CORPORATION : PA-02-02  
7 -----x  
8 INVESTIGATIVE TESTIMONY OF MARY C. HAIN  
9 Volume 2  
10 Washington, D.C.  
11 Wednesday, July 3, 2002  
12 REPORTED BY:  
13 BRENDA SMONSKEY  
14 Statement of MARY C. HAIN pursuant to subpoena, on  
15 Wednesday, July 3, 2002, in Washington, D.C., at the  
16 Federal Energy Regulatory Commission, 888 First Street,  
17 Northeast, Hearing Room 3, at 9:40 a.m., before BRENDA  
18 SMONSKEY, a Notary Public within and for the District of  
19 Columbia, when were present on behalf of the respective  
20 parties:  
21 JOSEPH ROSENBERG, ESQ.  
22 Commodity Futures Trading Commission  
23 Division of Enforcement  
24 140 Broadway  
25 New York, New York 10005

---

2:1 646-746-9763  
2 KIM G. BRUNO, ESQ.  
3 Federal Energy Regulatory Commission  
4 Office of the General Counsel  
5 Enforcement Section  
6 888 First Street NE, Room 92-40  
7 Washington, D.C. 20426  
8 202-208-1033  
9 --continued--  
10 APPEARANCES (CONTINUED):  
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17 KEVIN S. REED, ESQ.  
18 Quinn, Emmanuel, Urquhart, Oliver & Hedges LLP  
19 805 Third Avenue, 11th Floor  
20 New York, New York 10022  
21 P R O C E E D I N G S  
22 Whereupon,  
23 MARY C. HAIN  
24 resumed the stand and, having been previously duly sworn,  
25 was examined and testified further as follows:

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3:1 MR. ROSENBERG: Let the record reflect that  
2 this is a continuation of testimony in the matter of Enron  
3 Corporation, testimony which was started yesterday, July  
4 2nd. And I remind the witness that she is still under  
5 oath. We don't have to do the oath again.

6 MR. BRUNO: No, I don't think so.

7 MR. ROSENBERG: The witness is reminded she is  
8 still under oath. Again, the order is available at any  
9 point that you wish to consult it. Exhibit 1 is the  
10 Privacy Act or the statement to persons directed to  
11 provide information and testimony pursuant to subpoena on  
12 a voluntary basis. If you need to consult that, that's  
13 available as well.

14 When we left off yesterday, I believe we were  
15 going to introduce a document which was inadvertently left  
16 out of Exhibit Number 5. So we will mark this as  
17 Exhibit 12.

18 (Hain Exhibit 12 identified.)

19 EXAMINATION (Continued)

20 BY MR. ROSENBERG:

21 Q Directing your attention to what has been  
22 marked as Exhibit 12, does that form part of Exhibit 5 as  
23 it was originally submitted?

24 A Yes.

25 Q And where in Exhibit 5 in terms of the Bates

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4:1 stamp numbers does it fit in?  
2 MR. COLLINS: Maybe as a help here I can tell  
3 you where we found it.  
4 THE WITNESS: It goes between 0021 and 0022.  
5 MR. COLLINS: That's where we found it as well.  
6 We took it off the California AG Web site.  
7 THE WITNESS: That's where it was, off the  
8 California AG's Web site, yes.  
9 BY MR. ROSENBERG:  
10 Q Directing your attention to that page,  
11 generally what does it represent?  
12 A It is a continuation of the discussion of the  
13 shift load strategy. I guess that's what it was called.  
14 Q What did you understand the shift load strategy  
15 to be?  
16 A Well, what I have in my notes says "find times  
17 when we can influence transmission price because  
18 transmission translates into power price in final market."  
19 Q What does that suggest to you was the strategy?  
20 A I wrote in the left-hand margin that it was to  
21 maximize FTR revenues. And what my notes say is, it looks  
22 like, "to inc price versus the quantity" and "out of  
23 balance implicitly" -- and I assume that "req" stands for  
24 "request" -- "request transmission."  
25 Apparently what we were trying to do was to

---

5:1 figure -- apparently what the traders were trying to do  
2 was to figure the price curve on a constrained path by  
3 submitting multiple bids to find it. That's what my notes  
4 say.

5 Q Did that reflect the idea that by owning  
6 transmission rights, the ownership of those transmission  
7 rights could be optimized?

8 A That's what we were talking about on the page  
9 before, that EPMI owned 1000, apparently megawatts, out of  
10 1500 auctioned FTRs.

11 Q And did this strategy form part of inc-ing the  
12 load or the congestion relief general strategies?

13 A I can't tell you how it worked.

14 Q So, again, it is an example of you basically  
15 taking notes on what you heard, with your intention of  
16 going back later and trying to figure out what was said?

17 A Right.

18 Q I believe you testified yesterday that it was  
19 your belief at the time you prepared these notes that you  
20 would be tasked with doing the research on the Cal ISO  
21 tariff and see if these strategies in any way violated.

22 A It was my hope that I would.

23 Q Did anyone give you any indication while you  
24 were taking these notes or prior to taking these notes  
25 that that was going to be the case?

---

6:1 A No. I'm not exactly sure why I was called in  
2 to the meeting other than to add whatever information I  
3 knew about the California market and also because I needed  
4 to know what was going on for purposes of the regulatory  
5 actions at FERC. In particular, I needed to know what our  
6 regulatory risk was in the ongoing FERC proceedings  
7 involving the refunds.

8 Q And at the time you prepared these notes, did  
9 you know that Steve Hall or somebody from another firm  
10 would be tasked with the assignment of preparing some kind  
11 of an explanation and comment opinion on the California  
12 tariffs?

13 A I didn't know that. However, I knew that  
14 Richard Sanders had hired Gary Fergus to act as our  
15 counsel in the case.

16 Q The billing records reflect that this meeting  
17 went on for eight hours.

18 A That's right.

19 Q Does that comport with your understanding?

20 A Yes. I can't recall, though. There was one  
21 meeting where I think I was only involved in the morning  
22 or in the afternoon. I wasn't involved in it for the  
23 whole day. But I think on this one, my notes that we  
24 talked through yesterday say that I was there at 9 and 11  
25 and then it looks like in the afternoon. So I think I was

---

7:1 there for the whole day on this.

2 Q The best you can figure, even though they are  
3 not dated, they appear to reflect comments and discussions  
4 which took place on October 3rd?

5 A Yes. They actually are dated October 3rd.

6 Q They are dated on the first page; is that  
7 correct?

8 A Right.

9 Q Where did you get the information at the bottom  
10 of that page where it reflects that the FTRs cost 10  
11 million and made 40 million?

12 A That was my understanding of the profit, and  
13 that's what Tim -- once again, we asked him to quantify  
14 how much litigation risk there was associated with each  
15 one of the strategies, and that was the number that he  
16 gave us.

17 Q Did any of the heads of the different trading  
18 desks comment on this part of the memo?

19 A On this part of the memo?

20 Q On this part of the --

21 A The discussion?

22 Q -- the discussion with respect to how much was  
23 made on the FTRs.

24 A I just can't recall who else talked about the  
25 various trading strategies besides Tim.

---



8:1 Q I'm not talking about the trading strategies.

2 A I don't remember who else from the trading  
3 floor talked about anything that day, really, besides Tim.

4 Q But ultimately Tim Beldon would have all the  
5 P&L information, both on a daily and monthly basis, to  
6 allow him to make this kind of a representation?

7 A Yes.

8 Q If I understand correctly and so that it is  
9 clear, your interest was in the outside risk, the  
10 financial risk that Enron faced, and you wanted to get  
11 ahold of a number?

12 A That's right.

13 Q What was the ultimate number that you  
14 concluded?

15 A As I indicated to you yesterday, I sort of had  
16 a number in my head of like 30 or 40 or 50 million. I  
17 can't remember precisely. But I tried to go through and  
18 add these up, the individual places where I wrote dollar  
19 amounts down, and it doesn't really make sense because in  
20 the one place I wrote 5 million and then I wrote 10  
21 million right after it, total.

22 So, unfortunately, I don't have a very good  
23 number. But I think it is roughly around 30, 40, 50  
24 million, or that's what I thought.

25 EXAMINATION (Continued)

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9:1 BY MR. BRUNO:

2 Q Could I direct your attention to MH 0021 for a  
3 minute.

4 A Yes.

5 Q It states there at the middle of the page, when  
6 it is discussing the FTRs, "1000 or 500 auctioned." But  
7 on the right-hand side it says "Market Surveillance said  
8 will be watching."

9 Do you know who that comment was made to and do  
10 you know who Market Surveillance is that is being referred  
11 to there in the notes?

12 A Yes.

13 MR. REED: Do you know who that comment was  
14 made to? Do you mean who within Enron received that  
15 comment from Market Surveillance?

16 BY MR. BRUNO:

17 Q Let me break it into two parts. The first  
18 question is who is Market Surveillance in this?

19 A Now that you mention it, I think I had another  
20 discussion with I think it was John Forney when I went  
21 back out to my desk after the meeting. And John mentioned  
22 once again that Market Surveillance said that they would  
23 be watching. I think it was John. So I guess my  
24 assumption is that this strategy was in use by the  
25 real-time desk. I know you were trying to get to that

---

10:1 yesterday, and I couldn't remember who.

2 Q I'm glad a good night's rest --

3 A Not necessarily a good night's rest.

4 Q But my next question was if Mr. Forney made the  
5 comment to you that Market Surveillance said they would be  
6 watching, is this the California ISO surveillance group?

7 A Yes.

8 Q Do you know who would act as the, for lack of a  
9 better term, interface between Enron and Market  
10 Surveillance at the Cal ISO?

11 A They called the traders directly and told them  
12 their position on the various issues that they had with  
13 them.

14 Q So if there was a problem or a question that  
15 was posed by Market Surveillance, you may not necessarily  
16 know anything about it?

17 A Right.

18 Q When is it that you might know something about  
19 a problem or an issue that Market Surveillance might have  
20 with Enron?

21 A As soon as the traders tell me about it.

22 Q And do you remember that happening?

23 A I remember it happening at this meeting, and  
24 that's why I wrote it down.

25 Q But other than this particular comment here, do

---

11:1 you remember any other time that that issue had come up  
2 where you had to deal with it?

3 A I can't think of any.

4 BY MR. ROSENBERG:

5 Q On that same page, above that a reference is  
6 made to "Fat Boy." Do you remember what Fat Boy referred  
7 to or why was it called Fat Boy?

8 A I know that it was one of the trading  
9 strategies, and I know that it is discussed on page 0019  
10 of my notes.

11 Q Do you know what the term "Fat Boy" relates to?

12 A Why they used the term "Fat Boy"? No. I have  
13 no idea.

14 Q Do you know who the author of the strategy was?

15 A No, I don't.

16 Q Did you ever hear that a Mr. Rossman --  
17 R-o-s-s-m-a-n -- was the author?

18 A Stewart?

19 Q Right.

20 A No.

21 Q You never heard that? You don't know one way  
22 or the other?

23 A If I heard it, I don't remember it.

24 Q Do you know the origins of any of the names for  
25 any of the strategies?

---

12:1 A No, I don't. It is interesting if Stewart  
2 would have thought of this, because he didn't work for the  
3 real-time desk. He worked in mid-marketing. My notes say  
4 that Fat Boy is real-time, not day-ahead. So that doesn't  
5 really make sense. But I suppose he still could have  
6 been.

7 Q I'm not saying I know. I wasn't there.

8 A Right.

9 Q How about Get Shorty for Stewart Rossman?  
10 Would that make more sense?

11 A I'm sorry, but I just don't know who created  
12 the strategies. As I indicated to you yesterday, I think  
13 that one guy, I thought that he created one of the  
14 strategies, but I don't recall which one, unfortunately.

15 Q And I believe you testified you weren't aware  
16 if Michael Driscoll created any of the strategies?

17 A He might have. It seems like he came into that  
18 meeting. So it is very possible.

19 Q Do you know if Michael Driscoll went up to that  
20 white board and diagrammed anything?

21 A He very well could have.

22 Q But you don't have a specific recollection?

23 A I don't. And I can't tell you which strategy.

24 Q Do you know who approached the board besides  
25 Tim Beldon?

---

13:1 A I can't tell you.

2 Q While you were on the trading floor, did you  
3 ever hear strategy names being tossed about, Fat Boy,  
4 Death Star?

5 A No, I didn't.

6 Q Could you hear the different traders talking to  
7 each other at different desks?

8 A There was so much noise on the trading floor  
9 that I spent most of my time trying to tune it out because  
10 I had to concentrate on my work. You can imagine as a  
11 lawyer that it was very difficult. But that's what I had  
12 to do. I had to tune it out. I had to try to listen when  
13 somebody was calling my name or when somebody wanted to  
14 meet or whatever. But I spent a lot of time trying to  
15 tune it out.

16 Q Did you ever see any reports generated or  
17 e-mails which named these strategies or related somehow to  
18 the different names for the strategies?

19 A Not that I recall. As I indicated to you  
20 yesterday, I might have received a copy of the memo, a  
21 draft copy of Steve Hall's memo. If I did, my  
22 recollection of it was that I didn't have time to read it  
23 or that I -- I might have read like the first page of it  
24 or read it in a very cursory fashion. But that was about  
25 it in terms of these strategies.

---

14:1 Q If I understood you correctly, one of your  
2 assignments was to learn the trading strategies,  
3 strategies which were ultimately discussed at a meeting on  
4 October 3rd for eight hours.

5 A No, that was not my assignment.

6 Q Didn't you say one of the reasons you were  
7 moved to the trading floor was that you were to learn the  
8 strategies or what the trading floor involved?

9 A No. What I needed to know was how the traders  
10 did their business, but not their strategies. I did not  
11 learn their individual strategies.

12 Q Didn't their strategies relate back on how they  
13 did their business?

14 A No. In other words, I needed to sit with the  
15 traders and learn how a megawatt was traded, in other  
16 words, that they would call somebody up and say "I have a  
17 megawatt to sell, will you buy it from me," and then what  
18 happens from there, how it gets into the scheduling book  
19 and how the schedulers treat that information.

20 In other words, they take the long-term deals  
21 and match them up with short-term deals and net them out  
22 and where there's actual flows that are still going to  
23 happen over and above that, that they reflect them in our  
24 books.

25 But in terms of learning their trading

---

15:1 strategies, no, that was not my responsibility.

2 Q So you are saying now that you were asked to  
3 learn the mechanics of trading, essentially?

4 A That's right.

5 Q Why did you have to be on the floor to learn  
6 the mechanics of trading?

7 A What I had to be on the floor to learn was the  
8 traders' issues with counter-parties. If they had  
9 problems with their counter-parties, my purpose was to  
10 hear about those problems with their counter-parties,  
11 people who were trying to engage in anticompetitive  
12 behavior, people who were trying to discriminate against  
13 them, people who were proposing unjust and unreasonable  
14 provisions in their tariffs that hurt their business.

15 Q And it is your testimony today that you could  
16 do that task without learning the strategies?

17 A Yes, because the traders would talk to me about  
18 their individual problems. That was the reason that I was  
19 there, to learn about their problems, not to hear about  
20 their new, innovative strategies.

21 BY MR. BRUNO:

22 Q Is it fair to say that your function there was  
23 to assist or promote the trading function?

24 A Only to the extent that they asked me to  
25 promote them. I can tell you that there was a person down

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16:1 in Houston who I talked about yesterday, Christi Nicolay,  
2 and she was, I think, credited with quote, unquote, "going  
3 native" with the traders, in other words, learning their  
4 business so well that she could help them do their deals.

5 I never really got to that level with the  
6 traders. I never went native, and my supervisor wasn't  
7 all that happy about it.

8 BY MR. ROSENBERG:

9 Q So "going native" is a term that other Enron  
10 employees understood as really getting down to the bare  
11 bones of the strategies?

12 A Right. Well, helping with their day-to-day  
13 business.

14 BY MR. BRUNO:

15 Q Do you remember ever having to call the  
16 enforcement hotline on Enron's behalf to make a complaint?

17 A I probably did once or twice, yes. I know  
18 Christi called them a lot.

19 EXAMINATION (Continued)

20 BY MR. COLLINS:

21 Q Can I focus back on the discussion about Market  
22 Surveillance again. When the ISO's Market Surveillance  
23 group would call the traders, was that something the  
24 traders would normally speak with you about, do you know?

25 A Not typically, no. As I said, I found out

---

17:1 about this in this meeting, and this had apparently  
2 happened at some time before then, and I had never been  
3 told about it.

4 Q This is one instance. Do you recall any other  
5 instances in which you were told about it?

6 A I can't think of any.

7 Q If you know, what would they say to the  
8 traders? Would they say "we don't want you to do this  
9 anymore," things like that? What would be the nature of  
10 the conversation?

11 MR. REED: I think she just testified she only  
12 recalls the one time that it happened.

13 THE WITNESS: Was there anything else in my  
14 notes on another time?

15 MR. ROSENBERG: If you need to, take a minute  
16 to look at them.

17 THE WITNESS: Or was it the same trading  
18 strategy?

19 (Witness examined the document.)

20 I don't recall any time, and there's nothing I  
21 can find easily in my notes to indicate it otherwise.

22 BY MR. COLLINS:

23 Q Do you recall what Market Surveillance told the  
24 traders in this instance?

25 A Well, my notes said that they said they would

---

18:1 be watching.

2 Q Do you have any understanding as to what that  
3 means?

4 A Well, my notes say "impact on the price of the  
5 whole system is a problem." So I assume that's what they  
6 would be concerned about.

7 BY MR. ROSENBERG:

8 Q Who do you attribute that expression that you  
9 just mentioned, the impact on the system as a whole?

10 A As I indicated to you before, the only person I  
11 remember talking about these trading strategies was Tim.

12 Q That particular remark, do you have any special  
13 recollection about that remark?

14 A No, I don't.

15 Q Do you have any reason to believe it was anyone  
16 other than Tim Beldon?

17 A As I indicated to you yesterday, at various  
18 times Tim had various other members from the trading floor  
19 come in the room and explain the strategies, but I don't  
20 recall specifically who came in and when and what they  
21 talked about.

22 Q But at every point in those presentations, Tim  
23 Beldon was in the room?

24 A I think he was in the room at every point  
25 during those presentations.

---

19:1 Q So the statement on the impact on the market as  
2 a whole was shared with everybody in that room, whoever  
3 made it?

4 A Right.

5 Q Were there any questions about it?

6 A Not that I recall.

7 Q Was there any follow-up discussion on that  
8 aspect?

9 A I wrote down everything that I heard,  
10 basically, that I could write down fast enough, as I  
11 indicated yesterday. I was trying to write down  
12 everything that happened. So if it isn't written down, I  
13 don't recall it happening.

14 Q Well, it is not a verbatim account of what  
15 happened.

16 A No.

17 Q It is somewhat selective.

18 A Right.

19 BY MR. BRUNO:

20 Q Do you remember other people taking notes at  
21 the meeting?

22 A Yes, other people took notes at the meeting.

23 Q Do you remember who else took notes?

24 A No, I don't. But there were a lot of lawyers  
25 there.

---

20:1 Q Do you remember? Because I know you mentioned

2 Mr. Fergus being there. Do you suppose he took notes?

3 A I'm sure he did. I'm sure Richard took notes.

4 I'm sure Christian took notes. I'm sure Steve took notes.

5 And where are those notes? That's what I want to know.

6 And why aren't you cross-examining them about their notes?

7 BY MR. ROSENBERG:

8 Q Did you ever share your notes with anybody --

9 A No. I just stuck them in the file.

10 Q -- other than the entire world?

11 A Right.

12 Q Did you ever share them with anybody?

13 A No.

14 BY MR. BRUNO:

15 Q Besides Mr. Sanders, Mr. Fergus, Mr. Hall and

16 Mr. Yoder, do you remember any other attorneys there?

17 A You know, it's interesting because I can't

18 recall, but it seems like there was some mention in the

19 billing records of who else was there.

20 In terms of people who might have been there,

21 it seems like my supervisor, Steffes, would have been

22 there, but he wasn't a lawyer. And Paul Kaufman was a

23 lawyer, and he may or may not have been my supervisor at

24 the time. I can't remember when Steffes took over for

25 Kaufman.

---

21:1           So let's see. That's Mike Day, Richard  
2 Sanders, Christian Yoder, Steve Hall, Gary Fergus, Paul  
3 Kaufman, who are lawyers. Nobody else I recall off the  
4 top of my head.

5           I don't know whether Richard Shapiro would have  
6 been there or not, but he was a lawyer, and he was  
7 Steffes' boss.

8           Q    I'm going to show you a copy of a Stoel Rives  
9 billing record, it appears to be. It is indicating "Enron  
10 North America" at the top. It has the columns "date,"  
11 "current services through October 31, 2000."

12           Just take a moment and take a look at it and  
13 see if that helps refresh your recollection in any way.

14           A    Yes. Steffes was there, according to this. I  
15 thought he was there. It just says "and others," though,  
16 unfortunately. "Christian Yoder, Mary Hain, Jim Steffes,  
17 Richard Sanders, Tim Beldon and others."

18           BY MR. COLLINS:

19           Q    What about Bracewell & Patterson? Do you  
20 recall if they were there?

21           A    They very rarely came west for meetings. But  
22 they might have been there. I'm drawing a blank on that.

23           BY MR. ROSENBERG:

24           Q    Do you know who Shari Stack is?

25           A    Yes. She was an attorney for Enron North

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22:1 America.

2 Q Did she play any role in either responding to  
3 the CPUC subpoena or in drafting the strategies memo?

4 A She was a transactional lawyer, like Christian.

5 Q On the same document Mr. Bruno showed you  
6 earlier, the entry for 10/2, which doesn't mention your  
7 name, it talks about an office conference, Steve Hall's  
8 office conference "with Shari Stack and Christian Yoder  
9 re: CAISO."

10 A "Definition of firm energy."

11 Q "And inc/dec; update CAISO tariff; legal  
12 research re: CAISO definition of firm energy and inc/dec  
13 pricing."

14 Those were the tariff issues which were  
15 implicated by the strategies in some parts; is that  
16 correct?

17 A I really don't know.

18 MR. BRUNO: Now that we have asked so many  
19 questions about it, we should probably introduce it as an  
20 exhibit.

21 (Hain Exhibit 13 identified.)

22 BY MR. BRUNO:

23 Q While he is getting additional copies for you,  
24 I want to show you this. There's a reference on October  
25 6, 2000 to a Diane Raptor. Do you have any idea who that

---

23:1 is?  
2 (Witness examined the document.)  
3 A No, I don't. There's another reference to her  
4 too. I'm sorry.  
5 Q Yesterday I thought you testified that you  
6 didn't know much about the reclaim market; is that right?  
7 A The reclaim market?  
8 Q The emissions credits market in southern  
9 California.  
10 A Right.  
11 Q Is that correct, you didn't know much about it?  
12 A Yes, I didn't know.  
13 Q Do you remember who traded in that market?  
14 A We didn't trade emissions from the west desk.  
15 They were traded in Houston.  
16 Q Do you remember who traded them in Houston?  
17 A No, I don't know who traded them in Houston. I  
18 never met them.  
19 Q Would you have any recollection about which  
20 desk might have been doing that, because my understanding  
21 is Houston had gas trading functions; correct?  
22 A Yes.  
23 Q And they had east power and I think  
24 midcontinent or central power; is that right?  
25 A They traded everything except western

---



24:1 electricity, western interconnect electricity. They  
2 traded coal and gas and eastern electric, eastern  
3 interconnect electric.  
4 Q So you are not sure if the emissions trading  
5 would have been related to a western trading function in  
6 Houston?  
7 A I don't know how they separated it out or, if  
8 they separated it out, who worked on it.  
9 Q If you had that question and you wanted to pose  
10 it to somebody who formerly was at Enron, who would you  
11 probably pose that question to?  
12 A I would ask Kevin Presto or Tim Beldon or maybe  
13 Chris Calger.  
14 Q I notice you had worked prior to coming to  
15 Enron at Portland General.  
16 A That's right.  
17 Q There were a number of traders that had left  
18 Portland General that came to Enron as well?  
19 A Yes.  
20 Q Can you name some of them?  
21 A Swerzbin, Tim Beldon, Sean Crandall. I can't  
22 think of her name. You mentioned it yesterday.  
23 Q Diane Sholtes?  
24 A Diane.  
25 Q Did Mr. Forney come from Portland General?

---

25:1 A No. Forney came from Enron.  
2 I can't think of anybody else off the top of my  
3 head.  
4 Q Do you recall ever being asked by an Enron  
5 trader to intercede or act as an intermediary to a problem  
6 they were having with getting transmission or getting a  
7 service from Portland General?  
8 A Yes, there was. I don't think it was a trader,  
9 though. I think it was an originator, actually, because  
10 we were trying to get a long-term transmission deal from  
11 Portland and they were just being a pain. We felt like  
12 they were making us work harder than everybody else who  
13 was in the market because they were their affiliate. It  
14 was sort of like hyper code of conduct enforcement.  
15 Q Do you remember when that occurred, roughly?  
16 A It was in the time frame when I was in my last  
17 seat on the trading floor, which I think was roughly the  
18 summer of 2000 to April of 2001, somewhere in that time  
19 frame.  
20 Q Do you remember which originator asked you for  
21 help?  
22 A They all sort of run together after a while,  
23 you know. Some stand out more than others.  
24 Q It would be a mid-market deal; right? You were  
25 pretty clear it is an origination deal?

---

26:1 A Most of the long-term transmission was  
2 origination. That's the only reason I'm saying  
3 origination.

4 Q Okay.

5 A The trading desk did not buy a lot of  
6 transmission service. I know they bought that shape  
7 transmission. It seems like I helped them buy some in the  
8 southwest. I just can't recall.

9 Q The deal you just recalled about helping them  
10 buy some in the southwest, do you remember who you were  
11 buying it from?

12 A No. I think it was working with Paul Choi on  
13 it, though.

14 Q Do you remember if this long-term deal that had  
15 the problem with Portland General was ultimately  
16 successful?

17 A Oh, I remember what the problem was with  
18 Portland. It was rollover rights. And, first of all,  
19 they had a problem with the way that we submitted the  
20 request, and they rejected it on some like real minor lack  
21 of information.

22 Then we resubmitted it, and then they said that  
23 they had the right to roll over their transmission, which  
24 their merchant function had, and they didn't know whether  
25 they were going to exercise that or not. It is a free

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27:1 option, essentially, in the tariff, and they were going to  
2 leave their option open.

3           We had a dispute about the interpretation, of  
4 what FERC was saying on it, whether they had until 60 days  
5 beforehand to exercise that right or whether they had to  
6 exercise it once we had requested the transmission  
7 service.

8           Right about that time, fortuitously, the  
9 Commission issued an order in another case saying, I  
10 believe, that the transmission holder had up until I think  
11 it was 60 days before the end of the contract with which  
12 to exercise their right.

13           So that's what Portland did. And I think they  
14 rolled over, and we didn't get the transmission.

15       Q   Did you seek Commission staff's assistance in  
16 resolving that?

17       A   I can't recall off the top of my head. I'm  
18 pretty sure I used outside counsel on it.

19       Q   Would that have been Bracewell & Patterson?

20       A   Bracewell, yes.

21           I sort of stuck this page in Exhibit 5, but I  
22 don't know if that's how you want it.

23       Q   Let me see. That's Exhibit 12.

24       BY MR. ROSENBERG:

25       Q   Directing your attention to MH 0027. In that

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28:1 part of the meeting which dealt with responding to the  
2 subpoena, could you read the last legible sentence out  
3 loud to us.

4 A I think it says "pull deal numbers, physical  
5 tags, attributes." It says "X path," and I can't think  
6 what "X path" means there. I usually use that for  
7 connecting path. So it might have been "connecting party"  
8 rather than "path."

9 Q Does this relate to responding to the subpoena?

10 A Yes, I'm sure it did.

11 Q And what exactly do you understand you were  
12 pulling?

13 A Pulling would have been gathering all the  
14 information. In other words, gathering the deal numbers.



15 Q And was that information, as you sit here  
16 today, going to be turned over as part of the subpoena?

17 A Yes.

18 Q I would ask you to turn to MH 0029, third from  
19 the bottom line, which begins with the word "notes," and  
20 then there is an arrow that says "show Portland deals,"  
21 and then it says "remove notes." Was that also made in  
22 the context of responding to a subpoena?

23 A Yes. As far as -- what I understand was we  
24 were discussing the various programs that we had the  
25 information in. And I think that this particular program

---

29:1 which we were thinking about using to provide the  
2 information in, as I recall, had extraneous information in  
3 it that wasn't requested as part of the data request. So  
4 we were going to take it out because it wasn't requested.

5 Q Aren't the notes that discuss deals an integral  
6 part of the reporting of the data that's maintained on a  
7 deal? Don't notes go along with the deal?

8 A I don't recall what was requested in the data  
9 requests, and I don't have the data requests.

10 Q So you don't know if these notes were  
11 extraneous or if they were part of the document?

12 A My recollection was that we were going to take  
13 them out because they had not been requested. They  
14 weren't providing extra data that wasn't being requested.

15 Q If the notes explain the deals, is that a  
16 decision that's made, to comply literally with the  
17 subpoena?

18 MR. REED: I'm sorry. I lost my train of  
19 thought. Could you start that again?

20 MR. ROSENBERG: We are discussing the  
21 statement, and we believe there's testimony that's in  
22 connection with responding to the subpoenas. If I'm  
23 correct, your client testified that the removal of notes,  
24 that remark is intended to reflect the idea that materials  
25 which weren't requested were going to be removed, and that

---

30:1 implies that notes weren't requested and they were being  
2 removed.

3 THE WITNESS: Right.

4 BY MR. ROSENBERG:

5 Q I'm asking you did this reflect in any way, as  
6 a lawyer, any attempt to not fully disclose aspects of the  
7 Portland deals referred to earlier?

8 A As I indicated to you before, I don't know what  
9 was in the notes, first of all. Second of all, it was our  
10 intent to comply fully with the data request to the extent  
11 that we didn't succeed in opposing them; and, third, that  
12 we were not going to provide anything that wasn't  
13 requested.

14 Q Were the notes requested as part of the  
15 subpoena?

16 A I don't recall, as I said before, what was in  
17 the specific data requests. But we weren't, in my  
18 recollection, proposing to take anything out of the  
19 spreadsheets that had been requested.

20 Q What kind of information is in the notes in the  
21 spreadsheets?

22 A I just said I don't know what was in the notes.

23 Q There's an exclamation point by the words  
24 "remove notes." Does that have any significance?

25 A I think it was important to take out whatever



31:1 information was in there.

2 Q But you don't know if that information,  
3 specifically the notes, are integral to the deal or  
4 extraneous to the deal?

5 MR. REED: "Integral" and "extraneous" are  
6 terms that would depend on the context in which you are  
7 using them.

8 BY MR. ROSENBERG:

9 Q Typically, as to your knowledge as a lawyer in  
10 this area, do notes accompany descriptions of deals?

11 A I was not familiar with these programs. As I  
12 indicated to you yesterday, I made a list of them when Tim  
13 talked to us about them because the lawyers were asking  
14 him how he kept this data and what the programs were that  
15 the data was kept in.

16 I never on a day-to-day basis saw any of these  
17 programs or the spreadsheets. So I don't really know what  
18 was in the spreadsheets or what was in the programs.

19 Q So you don't know if the removal of notes is,  
20 as you said, to comply literally with what was being asked  
21 by the subpoena or something beyond that?

22 A It was my recollection that we were going to  
23 remove it from the spreadsheet, not destroy it, okay, but  
24 remove it from the program, remove it from the  
25 spreadsheet, because it was not requested in the data

---



32:1 request and we did not want to provide it.

2 Q Where was it going to --

3 A We did not want to offer to provide it.

4 Q Where was it going to be removed to?

5 A It was going to be -- this was all business  
6 information that we wanted to keep, obviously. We didn't  
7 want to destroy it. It was just going to be taken out of  
8 the information that was provided to the PUC.

9 Q And on the basis that it was not called for  
10 under the subpoena?

11 A That's right.

12 Q You have a recollection of that being the  
13 thrust of the discussion?

14 A Yes, I do.

15 Q When we had that discussion about the tag  
16 information, there was a reference to removing information  
17 on the tags. Was that also --

18 A I don't recall what was happening with the  
19 tags, as I indicated to you yesterday. I can't remember  
20 what that was about.

21 Q If you remove any part of the tag, is it, based  
22 on your knowledge, impossible now to understand who the  
23 parties were in the transaction fully?

24 A If you remove any part of the tag, you wouldn't  
25 fully understand the transaction.

---

33:1 Q So if the materials were submitted to the  
2 California Public Utilities Commission with information  
3 removed from the tags, that would not allow the recipient  
4 of that information to fully understand that particular  
5 deal?

6 A That's true.

7 Q Were you ever asked to give an opinion whether  
8 that was appropriate or not?

9 A I don't recall.

10 Q You don't recall if you were asked to give an  
11 opinion or you don't recall being asked to give an  
12 opinion?

13 A I don't recall being asked and I don't recall  
14 if I was asked.

15 Q Who was the lead attorney in terms of  
16 responding to the California Public Utilities Commission?

17 A Richard Sanders.

18 Q Any ultimate decisions were made by him, as far  
19 as you understand? Maybe "ultimate" is the wrong term.

20 A He worked with people in Houston to decide how  
21 they were going to respond, Richard, Mark Haedicke, and it  
22 is also my understanding that there were discussions with  
23 Richard Shapiro, Jim Steffes, and I don't know if the head  
24 of Enron legal was involved in any of those or not.

25 Q Who was the head of Enron legal?

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34:1 A I'm trying to think of his name.  
2 MR. BRUNO: Mark Haedicke?  
3 THE WITNESS: Not Haedicke. He was head of ENA  
4 legal. Enron Corp. had a general counsel. I can't think  
5 of his name.  
6 MR. BRUNO: Maybe we can come back to that.  
7 BY MR. ROSENBERG:  
8 Q In general, do you recall any instructions  
9 which suggested that that information was going to be  
10 withheld not against a claim of legal privilege to  
11 withhold it? In other words, was there any attempt to  
12 withhold any information improperly, in your view, from  
13 the California Public Utilities Commission?  
14 A No, there wasn't. The other thing is that this  
15 information was never provided. The responses to the data  
16 requests about the deals and about the profit and loss was  
17 never provided because Enron was making all of its legal  
18 opposition to providing that.  
19 Q And ultimately they prevailed?  
20 A Ultimately they were on the verge of providing  
21 it at the time that they filed for bankruptcy.  
22 Q So the legal challenge had been submitted and  
23 lost or it was just in negotiations?  
24 A I don't know. I don't know the status of that.  
25 Q You testified yesterday and you explained to us

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35:1 what dummy spreadsheets meant. Dummied spreadsheets  
2 required some work to be done on them prior to them being  
3 submitted; is that correct?

4 A Dumb spreadsheets are when you essentially  
5 remove codes -- I guess they are codes -- from the program  
6 that allow the program to be able to process data.

7 So in other words, you would just see a  
8 spreadsheet that had the information on it, but if the PUC  
9 tried to take any of that information out of an individual  
10 box and put in other information, the program would not be  
11 able to recalculate any of the other numbers because it  
12 wouldn't have the coding necessary to do that.

13 Q At the time the subpoena arrived or was served,  
14 the spreadsheets were not in the dummied-up format?

15 A That's right.

16 Q So at Enron, steps were taken to dummy up  
17 the --

18 A No. We held a discussion in the meeting about  
19 whether we were going to dummy up the programs or not to  
20 dumb down the programs. And I don't recall whether we  
21 decided we were going to or not.

22 As I indicated to you, the information was  
23 never provided. So it is sort of an exercise in pure  
24 discussion here.

25 Q I don't know what it is an exercise in. One of

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36:1 the issues was when these notes were held up in the air  
2 was the suggestion that there had been some improper  
3 conduct on the part of the people responding to the  
4 subpoena, and I think it behooves everyone to get their  
5 position clearly, and I think it is a legitimate area of  
6 inquiry.

7       There are numerous references to deleting this  
8 and that. In the context of a subpoena, that's at least  
9 at face value troubling, absent an explanation. You have  
10 provided your explanation. Others will presumably provide  
11 theirs, and the chips will fall where they fall.

12       This is an opportunity for us to learn as much  
13 as we can about it. And in this sense, to be as complete  
14 as possible is I think in everyone's interest.

15       MR. REED: Sure. You are within your rights to  
16 inquire. I think the record at this point is pretty clear  
17 that Ms. Hain's position is that Enron was responding to  
18 the subpoena in good faith, was providing that which had  
19 been requested and was not going to provide that which was  
20 not requested.

21       MR. ROSENBERG: Okay.

22       BY MR. BRUNO:

23       Q Let me ask you, MH 0027, about midway down the  
24 page, it starts out with "book-out 88 to 90 percent of  
25 deals," and then it says "of 350." Do you know what

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37:1 that's about?

2 A That was the financials versus fiscals that we  
3 talked about yesterday, that 88 to 90 percent of the -- I  
4 recall us having a discussion too about whether that was  
5 the number of deals or whether that was the amount, the  
6 dollar amount of the deals.

7 Tim was just kind of throwing out numbers  
8 because he said he would have to go back and actually pull  
9 the numbers, run the program to see actually how much was  
10 involved in book-outs. It looks like it says "of 350,"  
11 and I don't know what that means, what that refers to,  
12 "350." I'm assuming it is million, but I don't know what  
13 that means, like for what time period.

14 BY MR. ROSENBERG:

15 Q On the same page, moving down, where it says  
16 "remove deal nos," what do you understand that to mean?

17 A Remove deal numbers.

18 Q Why would you remove deal numbers? What does  
19 that mean?

20 A I don't recall why we were talking about  
21 removing them. I assume it is because they weren't  
22 requested. In essence, we were talking about trying to  
23 produce a document that included all the information that  
24 was required, didn't include useless stuff. And also we  
25 were talking about the difficulty of providing a lot of

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38:1 extra information and how much space that would take up.  
2 That's what all of these discussions were about in terms  
3 of providing the information.

4 Q What is a deal number?

5 A I think it is just when you get a deal in, you  
6 give it a number, and then the next one has the next  
7 number.

8 Q Is it a unique identifier for a particular  
9 deal?

10 A I guess so.

11 Q How would that be extraneous or unhelpful?

12 A I don't think it was responsive to anything.

13 BY MR. BRUNO:

14 Q Let me back up for just a minute. You  
15 indicated that Tim would be seeking to find out better  
16 numbers regarding the book-outs. Do you know who he would  
17 be getting that information from?

18 A I think from Cara.

19 Q Was she particularly knowledgeable about the IT  
20 systems or extracting information from them?

21 A She was the head of scheduling. She was very  
22 knowledgeable about the program that was used by the  
23 schedulers. I can't recall which one that was.

24 I may be wrong on that. Since she did  
25 scheduling, I don't know if it had any -- it seems like it

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39:1 would have the deals in it, but I don't know how much P&L  
2 information there was in scheduling is what I'm trying to  
3 say.

4 Q Just if you know, but do you know how much of  
5 that P&L information was produced from data maintained in  
6 Portland versus data that had to be produced from Houston?

7 A I know that Tim got the reports that he got  
8 from Houston, but I also know that we did a lot of our own  
9 back office work in Portland. So I guess my assumption is  
10 that the numbers somehow originated in Portland and went  
11 to Houston and then came back.

12 MR. BRUNO: I'm going to mark this as the next  
13 in order exhibit, Exhibit 14.

14 (Hain Exhibit 14 identified.)

15 BY MR. BRUNO:

16 Q The document I just handed you appears to be  
17 three pages. It is Bates stamped at the bottom SR 000258,  
18 259, 260. It appears to be a threaded e-mail message.  
19 The first page begins at the top with "Jennifer Fry -- Re:  
20 Data to prove opportunity cost," and it says "from Steve  
21 Hall to PDX Portland." The last page indicates it is from  
22 Jim Steffes to Mary Hain.

23 First, just a question. PDX Portland, is that  
24 just a general kind of e-mail exploder reference or is  
25 that a specific person at Portland?

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40:1 A It wasn't an exploder. It was just a  
2 subcategory of e-mail addresses that was created for  
3 Portland.

4 Q Would you have been on that e-mail list?

5 A I didn't get my e-mail address at the same time  
6 that some of these other people did. So I ended up with a  
7 different e-mail address. Ultimately everybody's e-mail  
8 address was changed to "@Enron.com." But they just went  
9 through and cleaned that up later.

10 Q I want to direct your attention to SR 00259,  
11 where it looks like an e-mail from you to Jim Steffes,  
12 "Steve Hall of the Stoel Rives law firm of ENA legal is  
13 handling this because it is an 'enforcement' matter." The  
14 quoting is around "enforcement" rather than "enforcement  
15 matter."

16 Do you know what you were saying there?

17 A I don't recall this specifically. I mean, I  
18 know what opportunity costs are used for, but I don't  
19 recall it specifically.

20 Q Do you remember why you might have referred to  
21 this as an enforcement matter?

22 A I don't know off the top of my head. My  
23 assumption is that I went to Christian and asked him who  
24 was going to handle it, and maybe he used the term  
25 "enforcement." I don't know. It is interesting, because

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41:1 then in the response, Christian says "classic regulatory."

2 Q What do you suppose he meant by that comment?

3 A I don't know.

4 Q Would you have received that comment?

5 A No.

6 Q The date on this appears to be November of

7 2000; correct?

8 A Yes, uh-huh.

9 Q Do you know anything that was going on at that  
10 time that might give you some context to this?

11 A Yes. The FERC was doing a lot of stuff with  
12 California. They were looking at the reasons for the  
13 shortage. They were looking at -- it strikes me that  
14 there were discussions going on about -- this might have  
15 had to do with cost caps, price caps or bid caps, whatever  
16 they were calling out there. And I think we were trying  
17 to argue for higher bid caps based on opportunity costs.

18 It is coming back to me now, sort of like a bad  
19 dream. But then I don't understand why that would have  
20 been an enforcement issue if that was what we were keeping  
21 the data for. It doesn't make sense.

22 Q Apparently on SR 00258, it appears to be an  
23 e-mail to you from Jim Steffes. And he asks that very  
24 question, doesn't he, "not sure what you mean by  
25 enforcement issue"?

---

42:1 A Right.

2 Q The other person who is copied on this, Alan  
3 Comnes, is he an attorney?

4 A No, he is not. He is either an engineer or  
5 economist. I can't remember. But he sat next to me on  
6 the trading floor. He was just hired about that time.

7 Q Did he sit next to you on the trade floor  
8 during the entire time you were on the trade floor?

9 A No.

10 Q Do you remember when he left?

11 A He was there when I left. But he didn't join  
12 until about this time. I don't recall exactly. October  
13 maybe. Maybe it was earlier.

14 He was brought in to help with our FERC filings  
15 because everything was so complicated in California that  
16 you needed to have -- Tim's joke was everything was so  
17 complicated in California that you needed to have a lawyer  
18 and an economist or an engineer to understand the filings.

19 MR. BRUNO: Do you want to take a short break?

20 Let's reconvene at 11.

21 THE WITNESS: Sure.

22 (Recess.)

23 MR. BRUNO: We are back on the record.

24 Mr. Collins had a couple questions.

25 BY MR. COLLINS:

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43:1 Q Referring back to what's marked as Exhibit 12,  
2 which is the one page of your notes that should be  
3 inserted into Exhibit 5. Do you have that in front of  
4 you? You will need a copy of what has been marked as  
5 Exhibit 12 and also Exhibit 5.

6 We are taking a look at Exhibit 12. Could you  
7 read for me the very first sentence there at the top of  
8 that page.

9 A It says, "Find times when we can influence  
10 transmission price because transmission translates into  
11 power price in final market."

12 Q The first word is "find"?

13 A "Find."

14 Q Do you know what that is referring to, by any  
15 chance, at this point?

16 A I think what it means is -- I think the  
17 reference is made again later on down the page where I  
18 wrote "trying to figure price curve on constrained path,  
19 submit multiple bids to find."

20 Q What does it mean at the top there when it says  
21 "find times when we can influence the transmission price"?  
22 I guess I'm wondering in the context of what we thought  
23 was maybe the page before in your notes where you got an  
24 asterisk in the middle of that page. It is MH 21. I'm  
25 wondering if it is also referring to that asterisk where

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44:1 you have written "impact on price of whole system is the  
2 problem."

3 A Right. I see where you are talking about.

4 Q Is this in connection with that statement, do  
5 you think?

6 A I think it is.

7 Q I'm wondering how they are connected, if you  
8 can recall.

9 A Well, I'm assuming that the price of the whole  
10 system means power price in the final market. I may be  
11 wrong.

12 Q What is meant by "final market"?

13 A I don't know if that means the real-time  
14 market. I guess that would be my best guess as to what it  
15 means, real-time market.

16 Q I'm wondering again on that first sentence  
17 there at the top of Exhibit 12 what the causal  
18 relationship is. The notes say that "we can influence  
19 transmission price because the transmission translates  
20 into power price in the final market." What is the causal  
21 link between those two?

22 A I don't know how that works.

23 Q If you turn over to MH 22 of Exhibit 5. At the  
24 very top of that, it says "effect on clearing prices,"  
25 with a question mark.

---

45:1 A Right.  
2 Q I'm assuming that's again connected to these  
3 statements?  
4 A I guess so.  
5 Q There's a question mark with a circle around  
6 it. Do you recall what the question was about that?  
7 A What I would say is that I was questioning  
8 whether there was an effect on the clearing price or that  
9 that question had been raised, whether there was an effect  
10 on the clearing price.  
11 Q Either you are questioning in your notes or Tim  
12 Beldon in the presentation was questioning it himself?  
13 A Right.  
14 Q But you don't know at this point in time what  
15 it is that might affect the clearing price?  
16 A No, or whether there was an effect on the  
17 clearing price.  
18 Q Just under that statement on MH 22 in your  
19 notes you have, "We could say just optimizing portfolio  
20 might have crossed ourselves out sometimes. We didn't do  
21 a very good job. We weren't causing the congestion, just  
22 increasing." Is that a correct statement?  
23 A Yes. I think I was taking down verbatim at  
24 that point Tim's defenses, trying to quickly take down  
25 what he said.

---

46:1 Q And one of his defenses was that this strategy  
2 and I guess referring to the shift load strategy was not  
3 causing congestion but increasing congestion. Would that  
4 be fair?

5 A That's what my notes say, we weren't causing  
6 the congestion, just increasing.

7 Q What does it mean, "might have crossed  
8 ourselves out sometimes"?

9 A In other words, we might have hurt ourselves by  
10 doing this. Actually, I'm not sure, but I guess the  
11 implication in my mind was that we didn't benefit from it  
12 in all cases.

13 Q And when it says "we didn't do a very good  
14 job," what does that mean? Do you recall?

15 A I think it's a reference back to we might have  
16 crossed ourselves out sometimes. In other words, we  
17 didn't always benefit from it. I don't know how we -- I  
18 don't know what the traders did wrong that they didn't do  
19 a very good job of.

20 Q Now, this was a strategy that involved use of  
21 your FTRs, do you recall?

22 A Right. That's what my notes indicate on page  
23 21.

24 Q I think you have testified already a little bit  
25 on this, and I apologize for reasking it again, maybe. Do

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47:1 you have any recollection of how the FTRs were used?

2 A No, I don't. I tried to read over my notes to  
3 see if they would help me, but they don't.

4 Q Were you in any other meetings after this  
5 meeting where you talked about these strategies?

6 A I don't think so. I think this was the final  
7 one that I was involved in.

8 Q Did you have any conversations with Christian  
9 Yoder or Steve Hall about the discussions in this meeting?

10 A The one thing I remember was that I think that  
11 Tim and I wanted to have the strategies evaluated to see  
12 whether they complied with the tariff.

13 I remember having that discussion while we were  
14 out on the trading floor. He was walking by or something  
15 and I said I wanted to know, and he said he did too, or  
16 something. And we talked about how Steve was going to do  
17 it. And that's really the last that I remember on this,  
18 although, as I said, I think I got a copy. I might have  
19 gotten a draft copy of the memo via e-mail. That's my  
20 last recollection.

21 Q From Steve Hall?

22 A Yes.

23 Q But Steve Hall didn't talk to you verbally  
24 about what he was --

25 A No, he didn't.

---



48:1 Q -- thinking or what he was coming up with?

2 A No, he did not.

3 Q Do you know why he wouldn't have at least  
4 checked with you as to his discussions with the traders  
5 since you were also involved with traders?

6 A That's true, I was involved with the traders.  
7 My understanding of it was that this was his project and  
8 he reported to Christian and to Richard Sanders and that  
9 these strategies were being discussed on a much higher  
10 level in my group in Houston by Jim Steffes and Richard  
11 Shapiro, with Richard Sanders and others.

12 Q But you don't know why he wouldn't have at  
13 least touched base with you, Steve Hall or even Christian  
14 Yoder as to what their thinking was?

15 MR. REED: Why Steve Hall didn't do something?

16 THE WITNESS: I was pretty busy. I was  
17 probably out of the office a lot when he was talking to  
18 them.

19 BY MR. COLLINS:

20 Q I guess my question is does it strike you as  
21 odd that you wouldn't have been in that loop or not?

22 A Not at all at Enron, not at all. If you were  
23 told to insert yourself in things by your boss, you did.  
24 And if you weren't tasked with doing something, then you  
25 didn't do it. If your boss didn't tell you to insert

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49:1 yourself in it, you didn't insert yourself. That's  
2 basically the way it went.

3 We did occasionally have -- and I don't recall  
4 when the time period for this was, but we occasionally had  
5 a weekly meeting on what was going on in California.

6 It might have started in like December or  
7 something. And it happened for like a couple of months,  
8 and I missed most of the phone calls. But I don't think  
9 that there was discussion in the phone calls about this  
10 or, if there was, it was more about the status of  
11 responding to the data requests, you know, what was  
12 happening, what the conversations with the PUC were like  
13 and what the status of any requests that we had with the  
14 PUC were.

15 I believe we talked about those kinds of things  
16 in those weekly meetings, but I don't recall talking about  
17 the strategies again at all.

18 Q What about Gary Fergus's role in understanding  
19 the strategies and talking with the traders? Did he play  
20 a role in that as well?

21 A I don't know.

22 Q Did you have any involvement with Gary Fergus?

23 A In the beginning I had some involvement with  
24 him, yes, and got copied on a few e-mails. But toward the  
25 time when the memos were produced, I was really being left



50:1 out of the loop largely on this.

2 Q Did your boss kind of ask you not to get  
3 involved in this?

4 A It was just my understanding that he was  
5 handling it.

6 Q This would have been Jim Steffes?

7 A Yes.

8 Q Where was Joe Hartsoe at this time?

9 A Joe was in D.C., and I don't recall whether he  
10 worked on this or not. When Jim Steffes came in -- this  
11 is all sort of dirty laundry, I think, but I will say what  
12 I think anyway. Joe was sort of pushed aside when Jim  
13 came in. So I don't know how much Joe was being consulted  
14 about this. He was kind of working on more NERC matters  
15 at that point.

16 If anybody else from legal might have been  
17 involved in it that I didn't know about, it might have  
18 been Sara Novasel, because she was being consulted  
19 regularly on issues, and she was a lawyer in regulatory.  
20 But I don't know whether she was or not.

21 Q In your interactions with the traders, none of  
22 the traders brought up any of these things to you  
23 following the October 3rd meeting?

24 A Not that I recall.

25 MR. COLLINS: That's all I have.

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51:1 BY MR. BRUNO:

2 Q A quick follow-up to Mr. Collins' question.  
3 The comment that Tim made to you, saying that we need to  
4 look at this stuff, did you take that to be a comment from  
5 Mr. Beldon, that he really meant it, or was it just an  
6 offhand remark where he really didn't intend to do?

7 A No. I think he sincerely wanted to know  
8 whether we violated the tariff. It is interesting,  
9 because I saw the Senate hearing on this, and the question  
10 came up of why Steve had written this memo. I think that  
11 Tim and I sort of provide the missing link there. I think  
12 that Tim and I were the ones who asked for it.

13 Q Was Mr. Yoder involved in any impetus towards  
14 making the memo occur?

15 A Probably. That sounds like the kind of thing  
16 that he would ask for as well.

17 Q Why is that?

18 A Christian was a very ethical person.

19 Q Was there anyone, to your knowledge, there who  
20 was advocating against producing such a memo?

21 A Not that I know of.

22 Q After the memo was produced, are you aware of  
23 any reaction to the fact that the memo was produced?

24 A No. At that point I was up to my eyeballs in  
25 regulatory filings. There was just so much going on that

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52:1 I really didn't track a lot of this stuff. I know there  
2 were some conference calls about it. I don't know who was  
3 on them. I don't know what was discussed.

4 It was my understanding, as I indicated, that  
5 my supervisor and his supervisor were involved in working  
6 with Richard on the trading strategies and also on the  
7 litigation strategies or responding to the PUC requests.

8 BY MR. ROSENBERG:

9 Q Did you understand that one of the purposes in  
10 Mr. Yoder signing on to the memo was that he wanted to get  
11 the attention of upper management at Enron?

12 A I really don't know that much about the memo to  
13 be able to say one way or the other.

14 Q You said earlier that Christian Yoder was an  
15 ethical person.

16 A Yes.

17 Q We understand that the memo has at least  
18 partial genesis in the issues that were coming up with the  
19 California Public Utilities Commission --

20 A That's right.

21 Q -- desire to learn what the strategies were.

22 A Yes.

23 Q Is there anything that you heard which suggests  
24 that the memo was also intended to alert anyone higher up  
25 the chain at Enron as to the practices that were reflected

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53:1 in the memo?

2 A I didn't hear anything about that.

3 Q One way or the other?

4 A One way or the other.

5 Q You said yesterday that you were regarded as  
6 somewhat of a reactionary on the spectrum of I guess  
7 counsel at Enron, and you speculated that that may have  
8 been the reason why you may not have been asked to  
9 ultimately write the memo on the trading strategies. Were  
10 you told anything to that effect, that they didn't want  
11 you to write them because of any kind of conclusions you  
12 might reach or your perspective?

13 A I don't know if I categorized myself as a  
14 reactionary.

15 Q That was your word. I'm not sure what you  
16 meant by that.

17 MR. REED: I'm not sure I recall that either.  
18 The transcript will say what it will say without us  
19 characterizing the testimony from yesterday.

20 THE WITNESS: It was my recollection that Steve  
21 was asked to do this because it was more in line with what  
22 his job duties were, that he was more involved in  
23 transactional matters and understanding, trying to get up  
24 to speed on learning the tariff for the trading floor to  
25 help them with transactional matters and that my time was

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54:1 to be better spent working on FERC filings, which is what  
2 I did.

3 There may have been other reasons that people  
4 didn't want me to work on it that I didn't know about. It  
5 could very well have been Tim who didn't want me to work  
6 on it if he didn't think that I understood the market very  
7 well, because I didn't understand the market very well.  
8 But other than that, I don't know.

9 BY MR. BRUNO:

10 Q Let me follow up on this question for just a  
11 minute. I know you testified to this yesterday, that you  
12 didn't consider yourself an expert on the California  
13 tariff; right?

14 A Right.

15 Q The FERC filings that you were responding to  
16 during this period of time, what were they in relation to?

17 A They were new changes that were being made to  
18 the tariff.

19 Q To the California tariff?

20 A The California tariff was like 3 or 4 inches  
21 thick, and like I said yesterday, it had algorithms in it  
22 and all kinds of stuff that I didn't understand, couldn't  
23 begin to understand.

24 Q I think it is fair to say that the California  
25 tariff is a unique instrument in regulatory law. Is that

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55:1 a fair statement?

2 A It was a horrible document because at least for  
3 a long time when I was on the trading floor, it wasn't  
4 even published all in one place. Instead, they took every  
5 individual filing that they made and posted the individual  
6 filings and very rarely put them all together in a single  
7 document. So it was very difficult to even read the whole  
8 thing or get the whole thing.

9 Q So much of the work that you were doing during  
10 this period of time was responding to the multiple filings  
11 the Cal ISO was making before the FERC or the CalPX; is  
12 that right?

13 A That's right.

14 Q And as part of that, you were trying to  
15 understand what this document was really saying; is that  
16 right?

17 A There were probably more complaints, many more  
18 complaints during that period that we were addressing than  
19 actual tariff filings. I don't recall exactly how many  
20 tariff filings there were. Maybe half a dozen, maybe a  
21 dozen. I can't recall.

22 Q Just so I understand what you are saying, so  
23 while you are responding to this physical flood of paper  
24 that's coming at you, is it your testimony that you are  
25 having trouble understanding how the traders in their

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56:1 day-to-day lives were actually responding to these rules  
2 that the Cal ISO had in place and were changing?

3 A I guess what I'm saying is that the filings  
4 that were made would be five pages in a document that was  
5 4 inches thick. To understand the market, you have to  
6 know the 4 inches part of it, rather than the five pages  
7 that were filed.

8 Q Did you ever feel like you were comfortable  
9 with that document at any point?

10 A The California ISO tariff?

11 Q Right.

12 A Never.

13 Q You said you left Enron in April of 2001. Why  
14 did you leave?

15 A I thought if I did my job right, I would work  
16 myself out of a job.

17 Q And did you?

18 A No, but I felt like I had learned the basics  
19 about trading at that point and that I could use it to  
20 parlay into the next interesting work, which I thought was  
21 going to be ISO work. I thought that you always want to  
22 work for clients who love you and need you, and I thought  
23 that the ISOs were going to have a lot of work to be done  
24 and would love and need regulatory lawyers for a long  
25 period of time.

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57:1 MR. ROSENBERG: Would need, love and pay you.  
2 THE WITNESS: Yes, that's key.  
3 BY MR. ROSENBERG:  
4 Q When was the first time you saw the December  
5 8th or December 6th memos written to Richard Sanders from  
6 Christian Yoder and Stephen Hall?  
7 A I don't recall. I may have seen a draft of  
8 them while I was on the trading floor via an e-mail. When  
9 they were posted, I purposely downloaded them and printed  
10 them to kind of glance at them to see if they looked  
11 familiar.  
12 Q Just so we are clear, when they were posted,  
13 you were no longer at Enron?  
14 A That's right. And I didn't recognize them,  
15 either Steve Hall's memo or Gary Fergus's memo.  
16 Q Did you look at the bold topic headings?  
17 A The names of the trading strategies?  
18 Q Right, roughly. I guess my question is to what  
19 extent did you peruse them?  
20 A I did not. I did not want to read them. I did  
21 not want to learn what I hadn't learned before.  
22 Q You never tried to read them against your  
23 notes?  
24 A No.  
25 Q Did you retain your notes when you left Enron?

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58:1 A I did not retain my notes. Under the ethical  
2 rules, they were my client's property, and so I left them  
3 with my client.  
4 Q And other than downloading them and possibly  
5 putting them away, you have had no opportunity to review  
6 that document as of today?  
7 A That's right.  
8 MR. ROSENBERG: I will have the reporter mark a  
9 copy of the Stephen Hall memo of December 8th as  
10 Exhibit 15. I will ask that the Brobeck memo be marked as  
11 Exhibit 16.  
12 (Hain Exhibits 15 and 16 identified.)  
13 THE WITNESS: As I indicated to you earlier --  
14 MR. ROSENBERG: There's no question.  
15 THE WITNESS: I'm sorry.  
16 MR. ROSENBERG: If you wish to clarify  
17 something --  
18 THE WITNESS: I was just going to say that I  
19 may have read Steve's memo at some point or another or  
20 read part of it. I just can't recall.  
21 BY MR. ROSENBERG:  
22 Q It was a question that I would have asked. So  
23 we will assume it is responsive to a question that is not  
24 on the record.  
25 I will now ask you -- and I have copies for

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59:1 counsel -- if you recognize these as the documents that  
2 you testified just now that you downloaded.

3 A That's what they look like, yes.

4 Q You indicated a desire not to read them today,  
5 and I think your counsel made a statement as to that  
6 effect.

7 I would ask you, though, that if you could  
8 peruse them and tell us if the document generally tracks  
9 the type of topics that were in your notes on that date,  
10 at least to that extent.

11 A Well, the titles are "inc-ing load into the  
12 real-time market" and "Export of California," "Non-firm  
13 export," "Death Star," "Load Shift," "Get Shorty," "Wheel  
14 Out," "Fat Boy," "Ricochet," "Selling nonfirm energy as  
15 firm energy," "Scheduling energy to collect the congestion  
16 charge 2." Those look like a lot of the terms that were  
17 in my notes.

18 Q From your review of those terms, can you tell  
19 us anything additional to what you have told us before  
20 about those, what you know about those strategies, without  
21 looking at the memo, if you choose not to, or by looking  
22 at the memo, if you choose to?

23 A I will look at the titles again. They look  
24 like the same titles as were in my notes.

25 Q And you said you may have received an e-mail

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60:1 attachment of something which may have resembled a draft  
2 of this document. After your review of the general  
3 structure of this document, is your recollection any  
4 clearer?

5 A I recall at the time that I did not want to  
6 work on this stuff because I had so much other stuff on my  
7 plate. So I don't recall if I read it and just didn't  
8 read it thoroughly or if I only read part of it or whether  
9 I made any comments on it.

10 I just remember that I didn't want to work on  
11 it at the time and didn't want to spend time on it. So I  
12 know that I didn't spend a lot of time on it, if I spent  
13 any time on it at all.

14 Q You are referring to both 15 and 16?

15 A Both 15 and 16.

16 Q I just want the record to be clear that we will  
17 take whatever time out if you should want to acquaint  
18 yourself with the document.

19 MR. REED: I appreciate that. As we said  
20 yesterday, our view is that it is not going to be of any  
21 value to your investigation for Mary to learn things now.

22 MR. ROSENBERG: Obviously we can't force anyone  
23 to read anything. I'm just making it available, and we  
24 will continue to ask the questions and answer as best as  
25 you can.

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61:1 I just want to let the record be perfectly  
2 clear that if you want to take time out to read them, we  
3 will make that time out for you. And you have elected, I  
4 guess on the advice of counsel or in consultation with  
5 counsel, not to take time out to read them.

6 THE WITNESS: I would prefer not to at this  
7 time.

8 BY MR. ROSENBERG:

9 Q Before you left Enron, did you have any  
10 discussions about these memos or any of the process  
11 leading up to it with anyone?

12 A Not that I recall.

13 Q Subsequent to leaving Enron and taking aside  
14 any conversations you may have had with counsel, have you  
15 discussed the memos with anyone?

16 A I was sitting at a PJM meeting.

17 Q What is PJM?

18 A It is where I work, a stakeholder meeting, and  
19 one of our stakeholders who was sitting next to me had  
20 gotten an e-mail from his attorney. He said, "Oh, have  
21 you seen the Enron memos?" And they were attached to this  
22 e-mail that he had gotten. I said I don't know what you  
23 are talking about, and he said, "Oh, well, there are these  
24 memos," and he clicked on them and opened them. And I  
25 said, "Are either one of them to me?" And he said no, and

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62:1 I said good. And that was the extent of the discussions  
2 that I had about the memos with other people.

3 Q Subsequent to that conversation, did anyone ask  
4 you to explain your connection to the memos, if any, at  
5 all?

6 A No. Actually, yes. Barbara Boxer asked me  
7 about them and her staff asked me about them.

8 Q Generally what did you tell them about these?

9 A I told them that I didn't write them, that I  
10 don't recall reading them, that I don't even know if I got  
11 them and that I wasn't responsible for the substance of  
12 them.

13 Q Did you relate this stakeholder story to  
14 Senator Boxer's staff?

15 A I don't recall.

16 Q Did you ever have any discussions with any of  
17 the traders about the memo?

18 A No.

19 Q Have you discussed it with Christian Yoder?

20 A I haven't talked to Christian Yoder since I  
21 left Enron.

22 Q Same question for Richard Sanders.

23 A I have talked about the memos with Richard  
24 Sanders.

25 Q And what did you say to him and what did he say

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63:1 to you?

2 A I actually can't recall whether I talked  
3 specifically about the memos with him. I mean, I know the  
4 context of the discussion was obviously generated by the  
5 memos because this is what started this whole hearing.

6 Q This is post December 8th?

7 A Yes, the Senate hearings, after that.

8 MR. REED: Mid-May of this year.

9 THE WITNESS: Mid-May.

10 BY MR. ROSENBERG:

11 Q So it is after they were posted on the FERC's  
12 Web site and after the hearings?

13 A Right. I'm sorry --

14 Q I'm trying to put a time on it.

15 A Uh-huh.

16 Q You had a conversation with Mr. Sanders. I  
17 interrupted you. What did you say to him and what did he  
18 say to you?

19 A I'm not sure, but I think I probably said to  
20 him that I don't recall whether I ever got the memos and  
21 whether I ever read them.

22 Q How did the conversation come about?

23 A I called him to find out about being  
24 represented by counsel.

25 Q What did he tell you?

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64:1 A He told me that the Bankruptcy Court would pay  
2 for counsel and that there were two attorneys who had been  
3 preapproved and that if I wanted somebody else, that I  
4 would have to get approval from the Bankruptcy Court for  
5 them.

6 Q Did you discuss anything else with Mr. Sanders?

7 A I went over some of the stuff yesterday. I was  
8 pretty upset about the way that Christian was treated in  
9 the hearing, and I mentioned that to him.

10 Q Was that over asking him to identify your  
11 notes, essentially?

12 A No. I got the impression that he was being  
13 treated like he was lying. I view Christian as a very  
14 ethical person. I was pretty upset about that.

15 Q What did Mr. Sanders say about that?

16 A "It's politics." I don't remember exactly what  
17 he said, but something along those lines.

18 Q Was there any discussion about the contents of  
19 the memos?

20 A Did he convey to me the contents of the memos?

21 Q No. Any discussion about the contents of the  
22 memos, as opposed to --

23 A Not that I recall.

24 Q At that time, did he ask you if you had any  
25 role in preparing the memos, "he" being Richard Sanders?

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65:1 A No, he didn't ask me about that.  
2 Q What else did you discuss?  
3 A We talked about the dollar amounts in my notes.  
4 Q What did he say about those?  
5 A What I said was I was upset because in the  
6 hearing, it was essentially being alleged that Enron had  
7 caused billions of dollars worth of costs to ratepayers in  
8 California. And what my notes reflected was single-digit  
9 or low double-digit million dollar numbers. It was as if  
10 Enron had caused the entire crisis in California, and I  
11 was kind of outraged about that, and I talked to him about  
12 that.  
13 Q What did Mr. Sanders say about that?  
14 A I think that he said that his notes reflected  
15 the same dollar amounts.  
16 Q Did you discuss anything else?  
17 A Nothing comes to mind right off the top of my  
18 head.  
19 Q Where did you -- I'm sorry?  
20 A One other thing that we discussed was how  
21 frustrated we were that lawyers who had been called into a  
22 meeting and took a whole bunch of notes were being  
23 questioned about them as if we were the ones who had  
24 created the trading strategies, rather than simply acting  
25 in the role of attorneys representing clients, finding out

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66:1 what they had done and trying to figure out whether they  
2 were lawful.

3 Q Did Mr. Sanders indicate to you that he  
4 retained notes?

5 A Mr. Sanders indicated to me that he had notes  
6 and they simply hadn't been turned over yet.

7 Q Did you ask him who had requested them or who  
8 had subpoenaed them?

9 A I guess I didn't. I guess I just assumed that  
10 they were in the process of turning them over to the AG.

11 Q Did you know at this point that your notes had  
12 been turned over that appeared on the Web site?

13 MR. REED: There were questions about this at  
14 the hearing.

15 MR. ROSENBERG: Somebody had them.

16 THE WITNESS: That's right. I knew that.  
17 That's how I got involved in it, was that my notes had  
18 been published on the Web site.

19 BY MR. ROSENBERG:

20 Q So the first time you learned that your notes  
21 had been published was from the testimony at the Senate  
22 hearing?

23 A I heard from one of our stakeholders that my  
24 name had come up in a Senate hearing. So I rushed home  
25 from the meeting at the end of the day and downloaded off

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67:1 the Web site the C-Span program and watched it.

2 Q That was the testimony of Mr. Yoder, Mr. Hall  
3 and Mr. Sanders and Mr. Fergus?

4 A That's right, about my notes.

5 Q Were there any inaccuracies as to how your  
6 notes were characterized that you can recall?

7 A Unfortunately, I didn't go back and watch that  
8 again. I should have gone back and watched that. I  
9 looked through my notes, but I forgot to go back.

10 I can't remember any specifics, but I was  
11 pretty upset about the way that some of the statements  
12 were characterized and the fact that the attorneys hadn't  
13 written the notes. So I didn't think that they were in a  
14 position to necessarily know what they said.

15 So a lot of things got read into the record,  
16 and there was no answer. A lot of questions got read into  
17 the record.

18 Q What else did you discuss with Mr. Sanders?

19 A One thing that Richard said was -- he did say  
20 something about the memo. Or maybe this wasn't in the  
21 memo. I don't know. But he said that Steve Hall's  
22 testimony about whether there had been a violation of  
23 California law, that that was the first time that Richard  
24 had heard that, or something to that effect.

25 Q Was there further discussion on that?

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68:1 A Not that I recall.  
2 Q Did you react to that statement?  
3 A I didn't really have any basis to react.  
4 Q So the answer is no?  
5 A No.  
6 Q Anything else in your conversation with  
7 Mr. Sanders that pertained to the memo or your employment  
8 at Enron?  
9 A Nothing comes to mind.  
10 Q Where did you make this call from? Home or  
11 your office?  
12 A I don't recall. I'm trying to piece together  
13 the events. It may have been from my cell phone. No.  
14 Here's what happened. I called him and he was at the  
15 hearing or still in travel. And he called me back the  
16 next day in my office.  
17 Q Did you make any notes of the conversation with  
18 Mr. Sanders?  
19 A I think I did.  
20 Q Do you know if those notes exist today?  
21 A I'm sure I probably still have them.  
22 Q Could you arrange through counsel --  
23 A Yes, I will look for them. My recollection is  
24 that I had like two paragraphs of notes and that it was  
25 about retaining an attorney and that sort of thing. It

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69:1 was not about the content of the discussion, but about the  
2 names of lawyers and that sort of thing.

3 Q If you could submit them through counsel.

4 A Sure.

5 Q Did you speak with anybody else about the  
6 testimony on that day or about the memo or your employment  
7 at Enron as it pertained to this memo?

8 A I got a phone call from a guy who worked for  
9 the San Francisco Chronicle, and he asked me a lot of  
10 questions about my notes, and I told him that the answers  
11 to the questions were covered by attorney-client  
12 privilege. He didn't ask me any questions about the  
13 memos.

14 Q The privilege in that case was Enron's  
15 privilege?

16 A That's right, which they subsequently waived.

17 Q There was, I believe, also an article that  
18 appeared in The Oregonian about the notes.

19 A Yes. I didn't talk to anybody from The  
20 Oregonian.

21 Q Are you familiar with that article?

22 A Yes. I read it.

23 Q What was your impression about how it was  
24 reported?

25 A I can't recall what was in the article at this

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70:1 point.

2 Q Did you ever speak to Mr. Yoder about this  
3 topic after you left Enron?

4 A I haven't talked to Christian since I left  
5 Enron, and I don't think I talked to him about the memo  
6 while I was still at Enron.

7 Q What about the Senate testimony?

8 A I don't think I talked to him about the Senate  
9 testimony. I don't think we spoke.

10 Q Have you spoken to Mr. Hall in this same  
11 connection?

12 A I tried to talk to Steve, but he wouldn't  
13 return my phone calls.

14 Q What was your purpose in calling Mr. Hall?

15 A I was just trying to find out what was going  
16 on. I was trying to find out anything at that point  
17 because I had heard that there was a Senate hearing, and I  
18 was just trying to get information about it.

19 Q When you left Enron, does Enron have a policy  
20 of conducting an exit interview?

21 A I went down and talked to my supervisors when I  
22 left, but I didn't have a regular exit interview. Wait a  
23 minute. Yes, I did. I had one with human resources.  
24 They had a human resources person there on the trading  
25 floor.

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71:1 Q Who was that person?  
2 A I can't recall her name.  
3 Q Did the topic of the memos come up?  
4 A Not at all. I also had an exit -- you wouldn't  
5 call it an exit interview, but it was a meeting with my  
6 supervisor in Houston before I left.  
7 Q Who was that?  
8 A Jim Steffes and also Richard Shapiro.  
9 Q Was there any discussion about the memo and the  
10 circumstances around it?  
11 A No, none whatsoever.  
12 Q Did you leave on good terms?  
13 A They didn't want me to leave. They didn't  
14 offer me any extra money. So I didn't stay. I don't know  
15 if I would have if they had.  
16 Q Was there any conversation in any of the exit  
17 interviews which reflects on these memos?  
18 A No.  
19 Q Or their preparation?  
20 A No.  
21 Q Other than Mr. Yoder, Mr. Hall, people at human  
22 resources, Mr. Sanders, have you discussed the memos and  
23 the preparation and the October 3rd meeting and events  
24 leading up to it with anyone else?  
25 MR. REED: Excluding counsel.

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72:1 MR. ROSENBERG: Excluding counsel.  
2 THE WITNESS: A couple of people have cracked  
3 jokes in meetings about the names of some of the  
4 strategies, obviously from reading the memos, you know,  
5 comments made to a room full of people.  
6 BY MR. ROSENBERG:  
7 Q What has been your typical posture to those  
8 comments? Ignore them? Respond to them?  
9 A Well, the first one, I didn't know what they  
10 were talking about because I didn't remember this. It was  
11 really odd. The first one was Andy Ott at a stakeholder  
12 meeting.  
13 Q O-t-t?  
14 A O-t-t. And he made some reference to Death  
15 Star, and everybody else in the group got it and I didn't  
16 because he just mentioned the title, Death Star, not to  
17 what the strategy was.  
18 MR. REED: And you were thinking Star Wars.  
19 THE WITNESS: And I was thinking Star Wars.  
20 BY MR. ROSENBERG:  
21 Q Other than chitchat and gratuitous comments and  
22 anything like that --  
23 A No.  
24 Q -- have you discussed this, and other than with  
25 counsel?

---

73:1 A No.  
2 MR. ROSENBERG: Do you have anything else?  
3 BY MR. BRUNO:  
4 Q I was going to ask you if you can assist us on  
5 something. I want you to take a look at this document and  
6 see if you recognize the handwriting.  
7 A Yes. It is my handwriting.  
8 Q That is your handwriting?  
9 A Yes.  
10 MR. BRUNO: I would like to mark this as next  
11 in order.  
12 (Hain Exhibit 17 identified.)  
13 BY MR. BRUNO:  
14 Q I will just give you a minute to familiarize  
15 yourself with it.  
16 A I know what is in the document.  
17 Q Do you know why you were taking notes with  
18 regard to this?  
19 A Yes, I do.  
20 Q And what was that all about?  
21 A There was another page that was immediately  
22 following this that it relates to. I was representing the  
23 trading floor in a case involving Bonneville Power  
24 Administration's open access tariff, and it was our  
25 feeling that Bonneville's tariff should be the same as the

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74:1 FERC's pro forma tariff.

2           As I outlined in the other document that you  
3 haven't marked yet, there were several different ways that  
4 Bonneville's tariff was different than the open access  
5 tariff. I pointed out all of those ways.

6           I created the list for the traders to see if we  
7 had any negotiating room with Bonneville as to provisions  
8 that they didn't mind Bonneville having different than the  
9 open access tariff. If they didn't hurt their business,  
10 then we wouldn't argue about it too much.

11           One of the provisions that we found  
12 particularly bad was the definition of eligible customer,  
13 because Bonneville essentially allowed the states to  
14 determine whether customers could get access to  
15 transmission service, retail customers, ultimate retail  
16 customers.

17           In other words, if the states had not allowed  
18 retail competition, then customers couldn't get access to  
19 transmission service. And we didn't like that provision,  
20 and I didn't even like to talk about it because I was  
21 afraid that some of the utilities wanted it, and I didn't  
22 know whether it was an antitrust violation to talk about  
23 it.

24           So I left the room when the discussion was  
25 going on, and all the stakeholders were upset with me

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75:1 because I was slowing down the negotiations and we were  
2 close to having a settlement of the case. And I called up  
3 Dick Price and asked him because everybody was saying that  
4 the Noerr-Pennington Doctrine was a defense, and I didn't  
5 know the Noerr-Pennington Doctrine.

6 Q Who is Dick Price?

7 A He was an attorney with, I think, Stoel Rives.

8 And I think ultimately what we did is we didn't sign the  
9 settlement agreement, but we didn't protest it. I can't  
10 recall if that's exactly what happened, but that's my best  
11 recollection of what happened. It has been filed here at  
12 FERC. So you can verify whether we did or not.

13 Q This is all I have. I don't have the second  
14 page that you are referring to. Can you tell me if it is  
15 typewritten or if it is handwritten or what it might be.

16 (Witness examined the documents.)

17 A Here it is. It is typewritten and handwritten.

18 Q The document you just gave me says "changes  
19 made consistent with pro forma tariff Order Number 638  
20 current Commission orders and our wishes." It is  
21 apparently two pages. Do we have additional copies of  
22 this?

23 I would like to enter this as next in order,

24 18.

25 (Hain Exhibit 18 identified.)

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76:1 BY MR. BRUNO:

2 Q So the reference there in the middle on Exhibit  
3 Number 17 to "exceptions if conspiring ahead of time to  
4 allocate customers" --

5 A "For service territory," and then I don't know  
6 what that other thing means that says "I haven't been  
7 conspiring." That's what it says.

8 Q And the word is "Enron" above there?

9 A Yes. Apparently -- I'm sorry. I will let you  
10 ask your question.

11 Q I'm just trying to get a context for that  
12 particular thing in your notes there. Can you provide the  
13 context for what you are referring to there?

14 A All I was trying to do was figure out if there  
15 was an exception to us even discussing this eligible  
16 customer definition in Section 2.2 of the tariff, and I'm  
17 pointing right now to Exhibit Number 18. I was concerned  
18 that -- here it is, "definition of eligible customer,  
19 antitrust."

20 I was concerned that the definition of eligible  
21 customer was an allocation of customers, which would be a  
22 violation of antitrust law, as I understood it.

23 I wasn't an antitrust lawyer, but I knew enough  
24 to know that I didn't want to get Enron in a lot of  
25 trouble for violating antitrust law.

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77:1           So I was afraid it was a customer allocation.  
2   And I had been told by I think it was Puget Sound and  
3   Washington Water Power, that wanted this provision, that  
4   there was an exception to the antitrust laws called the  
5   Noerr-Pennington Doctrine, and as I understood it, what  
6   they had said, it allowed an exception to the antitrust  
7   laws to allow you to petition the government to exercise  
8   your Constitutional rights. So that's why I called Dick.

9   Q   And Dick is an antitrust lawyer at Stoel Rives?

10  A   Yes.

11           THE WITNESS: I hate to ask you this. Do you  
12  mind if we take a break again?

13           MR. BRUNO: Sure.

14           (Recess.)

15           BY MR. ROSENBERG:

16  Q   Ms. Hain, I'm going to show you a series of  
17  attachments to e-mails that appear to have come from  
18  Christian Yoder. The first one is dated September 22nd,  
19  2000 with a time frame of 9:17 a.m.

20           We will have that marked as the next exhibit.

21           (Hain Exhibit 19 identified.)

22           MR. ROSENBERG: And then a second e-mail from  
23  Christian Yoder with an attached file dated the same date,  
24  with a 2:27 time period. That will be marked Exhibit 20.

25           (Hain Exhibit 20 identified.)

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78:1 MR. ROSENBERG: They are both on the same date,  
2 different times.

3 BY MR. ROSENBERG:

4 Q I will give you a second to look at them.

5 (Witness examined the documents.)

6 A Okay.

7 Q Do you recall receiving these e-mails?

8 A There were a number of e-mails like this that  
9 look familiar and that I received about data responses  
10 that were received by the California Power Exchange and  
11 the ISO. I don't remember the specific e-mail from  
12 Christian, though.

13 Q If you can look at the next exhibit, is that  
14 the subpoena that we have been referring to? I think the  
15 next exhibit is Number 20. Attached to that e-mail is a  
16 subpoena.

17 A Uh-huh.

18 Q The exhibit makes reference to you being the  
19 point person on the subpoena. Do you recall that  
20 characterization?

21 A I don't recall that characterization. We  
22 weren't actually being requested to provide information  
23 here, though. What was happening was in both of these  
24 cases, the California Power Exchange was being requested  
25 to provide information, and they were required to notify

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79:1 us under the tariff in the event that we wanted to  
2 exercise our right under the tariff to try to keep that  
3 information confidential.

4 Q So these two documents don't refer to the  
5 earlier subpoena request that you testified about?

6 A Well, I testified about it earlier, but it  
7 wasn't an earlier request. It was a subsequent request  
8 from the CPUC.

9 Q But this is not directed to Enron?

10 A No.

11 Q Either one of these two?

12 A Neither one of those are directed to Enron.

13 Q Can you explain what Mr. Yoder may have meant  
14 by saying "do your thing"? What was your thing?

15 A I think what we were talking about, requesting  
16 confidentiality, exercising our right to confidentiality.

17 Q So this is unrelated to the subpoena that we  
18 discussed which was the subject of the October 3rd  
19 meeting?

20 A Right.

21 MR. ROSENBERG: Let's go off the record.

22 (Discussion off the record.)

23 BY MR. BRUNO:

24 Q I was going to ask you something that you might  
25 be able to elucidate or at least provide some information

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80:1 that might be of assistance.

2 We went through the Form 1s that Portland  
3 General filed for purchase power and ran it for 1999, 2000  
4 and 2001. Apparently with regard to the purchase power  
5 that they filed, Enron jumped from 1999 from about  
6 32,678,000 to about 204,900,000 in 2000 and then fell to  
7 140,413,000. Do you have any reason, anything you can  
8 help in explaining why that would be the case?

9 A This was power that Portland bought from Enron?

10 Q Right.

11 A Does it indicate how much Portland sold to  
12 Enron?

13 Q That's in a different filing. I was just  
14 looking at the purchase power.

15 A Well, the reason I'm asking is because we  
16 wanted to do parking with Portland, as I discussed  
17 yesterday, and we did that filing to facilitate doing  
18 parking with Portland. So I guess I assumed that that  
19 perhaps reflects what was going on here. I don't know why  
20 it goes back down again, though.

21 Q The other thing that was interesting about the  
22 data was that Avista changed from approximately 121  
23 million in power that it was purchasing in 2000 to  
24 155 million. The other major counter-party appears to be  
25 El Paso Power Marketing, where in 2000 it was 13.6

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81:1 million, and then it jumps to 174 million in 2001.

2 Q Was there anything you recall about why that  
3 would be the case?

4 A No.

5 Q Was there any kind of parking or lending kind  
6 of process going on between Portland and El Paso for any  
7 reason?

8 A I don't know anything about Portland's  
9 transactions.

10 Q Well, the reason I was asking is that you were  
11 on the trade floor and you may have heard people talk  
12 about it who might have known something.

13 A We weren't supposed to have information about  
14 Portland's transactions for code of conduct reasons.

15 Q Was it something, though, that Enron would  
16 track with regard to information that was filed with the  
17 FERC?

18 A I was asked to provide FERC Form 1s for  
19 Washington Water Power once but never for any other  
20 entity.

21 Q Do you remember why?

22 A For Washington Water Power?

23 Q Yes.

24 A We wanted to do a transaction with them about  
25 a -- it was an origination deal, and the originators

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82:1 wanted more information. I don't remember whether we were  
2 talking about buying a generator from them or constructing  
3 a generator to replace the generator that they had or what  
4 it was. I suggested that they look at the FERC Form 1  
5 because I thought it would be useful, there might be some  
6 useful information in there.

7 Q The other thing that was interesting about some  
8 of the data that came back on the Form 1 was that with  
9 regard to Portland General's counter-party --

10 MR. REED: This phone call I have to take.

11 MR. BRUNO: Let's take a five-minute break.

12 (Recess.)

13 BY MR. BRUNO:

14 Q When we were about to adjourn, I had a question  
15 to see if you could help us out with. This is information  
16 we derived from Portland General's Form 1s.

17 Apparently Morgan Stanley, with regard to  
18 Portland General's purchase power, jumped from about 3.8  
19 million to \$140 million. Do you know anything about that?

20 A No.

21 Q Some of the municipals, apparently much of  
22 their -- Portland General changed its purchase habits,  
23 where it was increasing purchases from municipals. Would  
24 you know anything about that?

25 A No.

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83:1 MR. BRUNO: I don't have anything further. You  
2 had a couple questions, right?

3 EXAMINATION

4 BY MS. BURNS:

5 Q One of the things you said yesterday, Mary, was  
6 that Enron didn't buy a lot of transmission, that they  
7 mostly traded on the basis of points. Did you know if  
8 some of the strategies that were discussed in Mr. Yoder's  
9 memorandum involved looking like you moved power without  
10 moving it? Did the fact that you weren't buying a lot of  
11 transmission raise any red flags with you?

12 A I didn't really understand the trading  
13 strategies all that well when they were being explained.  
14 So in terms of whether things raised a red flag for me or  
15 not, I just can't tell you that anything concerned me that  
16 much because I don't claim to have understood it well  
17 enough.

18 I don't remember whether I went out of the  
19 meeting thinking that there were problems with the trading  
20 strategies or not or whether I fired off an e-mail to  
21 somebody saying that I had a problem with them or not. I  
22 just don't have that much recollection about it,  
23 unfortunately.

24 Q Forgive me if you have already been asked these  
25 questions before. One of the things you said yesterday

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84:1 was that during the October 2nd meeting where Tim Beldon  
2 was explaining some of the strategies, you wondered  
3 whether any of them had violated the tariff.

4 A That's right. That was my biggest concern, was  
5 I wanted to know whether or not any of them had violated  
6 the tariff, because I thought that that would determine  
7 whether or not we had exposure, whether we had -- I mean,  
8 I felt that there were political parties who would try to  
9 take money back from us regardless of whether we violated  
10 the tariff. But as a lawyer, I wanted to know whether we  
11 had violated the tariff for purposes of knowing what our  
12 litigation risk was.

13 Q How did you follow up on finding out whether  
14 you had or not?

15 A I was told that Steve Hall --  
16 MR. REED: Whether you had what or not?

17 BY MS. BURNS:

18 Q Whether Enron had violated the tariff with  
19 these trading strategies.

20 MR. REED: This is essentially what we  
21 discussed for like seven hours yesterday.

22 MS. BURNS: Yes, I know.

23 MR. BRUNO: That's all right. I think it is a  
24 fair line of questioning. We are also trying to probe.  
25 We don't mean to exhaust Ms. Hain. But on the other hand,

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85:1 we want to make sure that she has a complete recollection.  
2 I think the record will reflect that even  
3 though Mr. Rosenberg went over a line of questioning about  
4 Mr. Sanders' telephone call, Ms. Hain was able to remember  
5 details about that call that she wasn't able to remember  
6 yesterday.  
7 So we want to make this as painless as  
8 possible. But I think we are here. So let's see what we  
9 can find out.  
10 MR. REED: Okay.  
11 THE WITNESS: So the question was?  
12 BY MS. BURNS:  
13 Q Was what you did to follow up on resolving that  
14 question for yourself.  
15 A It wasn't my job to resolve the question for  
16 myself. I was told that Steve Hall was going to write the  
17 memo, and Steve wrote the memo.  
18 Q Did you see the memo?  
19 A I did not, to my recollection, read the memo.  
20 I may have received an e-mail draft of it.  
21 Q Did you go to Mr. Hall or not since this was  
22 also your area of expertise?  
23 A I did not go to Mr. Hall about it.  
24 Q So you never really got an answer to your  
25 question about whether or not it violated the tariff?

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86:1 A I did not.

2 Q The week you spent sitting with the traders to  
3 try and learn the market, you were sitting, what, behind  
4 them as they went through some of their transactions to  
5 see how they did it?

6 A I sat right next to them. We would just kind  
7 of pull up a chair on the trading floor and talk to each  
8 other. So I kind of pulled up a chair next to them.

9 Q After they had constructed a deal, did they  
10 explain to you what exactly was going on with the deal?

11 A Well, what I did was I sat with the traders  
12 while the traders were making their phone calls, and what  
13 they would do is call people up if they needed to buy  
14 power and say "I want to buy some power and I need 100  
15 megawatts at X location, have you got any, and what's your  
16 price for it." Whereas, if they had power that they  
17 wanted to sell, they would say "I have 100 megawatts at  
18 Cobb," and then they would discuss the price.

19 Q Did you ever see them do a string transaction,  
20 sort of where they would move the power outside of  
21 California and bring it back in?

22 A No. And this was relatively early on. This  
23 was when Philip Allen was still working on the trading  
24 floor. He was the vice president at the time.

25 Q And about the time that those strategies would

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87:1 have been taking place, you were involved in other  
2 matters?

3 A What do you mean?

4 Q Were you still out on the trading floor later  
5 on, after --

6 A I was on the trading floor later on. I wasn't  
7 located on the trading floor earlier on. When Philip was  
8 working there, I wasn't located on the trading floor.

9 MS. BURNS: I don't think I have anything else.

10 MR. BRUNO: Do you have any questions?

11 BY MR. ROSENBERG:

12 Q Is there anything which you wish the record to  
13 reflect which is within the purview of your knowledge  
14 involving any misconduct on the part of traders or their  
15 supervisors or counsel in connection with your duties at  
16 Enron?

17 A No.

18 Q Is there anything that you wish to clarify  
19 about your testimony over the past two days?

20 MR. REED: Maybe we can take a minute and  
21 consult on that.

22 MR. BRUNO: Yes. Off the record.

23 (Recess.)

24 MR. ROSENBERG: The risk of leaving is we think  
25 of more questions.

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88:1 BY MR. ROSENBERG:

2 Q Were you compensated on generally a salary  
3 basis?

4 A Salary and bonus.

5 Q Was the bonus connected with the profits earned  
6 by the power group, the west power group?

7 A I don't actually know the answer to that  
8 question. I know that it was based on the company as a  
9 whole. There may have been some portion of it that was  
10 based on how the traders did. Those decisions were made  
11 at a very high level in Enron and they weren't, I don't  
12 think, shared with employees.

13 Q What percentage of your compensation was salary  
14 in your last year and what percentage was bonus?

15 A I think my bonus was like \$25,000.

16 Q What percentage of your totals?

17 A Or \$30,000. I can't recall. My salary was 115  
18 or 120.

19 Q Were those proportions roughly equal throughout  
20 the time you were at Enron?

21 A Yes.

22 MR. REED: Those figures relate just to the  
23 last year, 2001?

24 THE WITNESS: They were about the same  
25 throughout my time there.

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89:1 BY MR. ROSENBERG:

2 Q Proportionally?

3 A And the dollar amounts as well.

4 MR. ROSENBERG: Ms. Hain, we have no further  
5 questions at this time. We may, however, call you again  
6 to testify in this investigation. Should this be  
7 necessary, we will contact you through counsel.

8 There is one remaining item that you were going  
9 to check as to your notes on your conversation with  
10 Mr. Sanders. If you could --

11 MR. REED: We will do that. I may ask you to  
12 make the request in writing. I want to think about that.

13 MR. BRUNO: There was also a request for other  
14 notes and stuff that you have retained regarding trading,  
15 trading strategies.

16 THE WITNESS: Yes. I don't think I have  
17 anything because, as I indicated, I returned my notes to  
18 my clients. The one thing that you asked for that I may  
19 have is CLE materials. So I will look for those.

20 MR. BRUNO: Thank you.

21 MR. REED: We will not construe your requests  
22 to include materials that she may have downloaded from the  
23 Web site, unless there is some position that you cite  
24 otherwise.

25 MR. ROSENBERG: Okay. At this time we are

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90:1 adjourning your testimony. Although the testimony is  
 2 adjourned, you remain under subpoena. You have already  
 3 been given an opportunity to clarify or add anything to  
 4 the statements you have made today.

5 We are off the record. It is July 3rd at  
 6 approximately 12:54.

7 (Whereupon, at 12:54 p.m., the deposition was  
 8 adjourned.)

9 C O N T E N T S

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