

Ex-Enron customers win one in court

Energy - The Snohomish County PUD will have a tough time collecting its share of the \$1.6 billion judgment

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Snohomish County Public Utility District prevailed against Enron -- again -- last week when an administrative law judge ordered the bankrupt energy giant to disgorge \$1.6 billion in illegal profits made from customers of West Coast utilities.

Judge Carmen Cintron also ruled that \$157 million in contract termination payments Enron was seeking from Snohomish were "unjust profits."

The judge's decision was preliminary and left many uncertainties, not least of which is whether customers who paid high energy costs because of Enron's trading machinations will ever see a penny. The judge's decision is subject to review by the Federal Energy Regulatory Commission, which could take two months, according to a FERC spokeswoman on Monday.

Enron then could appeal a FERC ruling. The commission also will need to mediate among utilities all over the West Coast who want a share of the \$1.6 billion.

Finally, it's not clear where the claim would stand in line with other creditors seeking money in Enron's bankruptcy.

Snohomish assistant general counsel Eric Christensen said he doubts consumers in the Northwest will see much if any money from the ruling because FERC hasn't filed a claim in the bankruptcy proceeding, something he thinks Enron will use aggressively to exclude it.

Still, he said, the decision was vindication for Snohomish, which has vigorously defended itself since Enron sued the company in 2003, claiming the utility owed it \$117 million plus interest for canceling an electricity contract.

Snohomish canceled the contract just before Enron filed for bankruptcy in 2002. The PUD subsequently became convinced that the contract was exorbitant and unenforceable because Enron had manipulated the market to drive up energy prices. The judge agreed.

"She pretty much gave us everything we wanted, other than awarding refunds for overcharges Enron imposed on us," Christensen said. He said FERC already ruled last year that the contract was unenforceable but the bankruptcy court chose to ignore that ruling and pursue the claim in another proceeding.

Snohomish gained national attention for uncovering and transcribing thousands of hours of profanity laced recordings of Enron's energy traders bragging about their manipulation of the

market. Many of the colorfully named energy trading schemes (Death Star, Fat Boy and Get Shorty) employed by Enron's traders and outlined in detail in the FERC complaint were launched from Enron's Portland office.

Enron gained its strategic foothold in the West Coast energy markets with its acquisition of Portland General Electric in 1997.

Robert McCullough, a Portland energy consultant who has spent much of the past four years working on Enron-related cases, provided one of two accounting estimates of Enron's energy trading profits used by the judge to reach her \$1.6 billion decision. McCullough said that most of that money came from Northwest consumers and that PGE's customers could be due a sizable refund. PGE was wholly owned by Enron until April 2006. It has never filed a claim on behalf of its ratepayers.

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