



McCullough Research

6123 S.E. Reed College Place
Portland, Oregon 97202

Voice: 503-771-5090

Fax: 503-771-7695

Internet: garrettcraw@mresearch.com

MEMORANDUM

Date: November 6, 2002

To: McCullough Research Clients

From: McCullough Research

Subject: Portland General Electric presentation to the Oregon PUC regarding FERC EL-02 Inquiry.

On November 4, 2002, Portland General Electric requested an opportunity to present to the Oregon Public Utilities Commission its role in the FERC inquiry into the companies trading practices for 2000-2001. In attendance for the presentations were Commissioners: Lee Beyer, Joan Smith and chairman Roy Hemmingway. Also in attendance from the Oregon PUC were it's legal counsel, various staff members and a number of office personnel. Presenters for Portland General Electric were Pamela Lesh, Jay Dudley and A.W. Turner. Additional attendants to the presentation included two reporters, one from the Oregonian and one from Business Weekly, as well as other unknown observers.

The presentation opened with an introduction of the various parties followed by a brief introduction from Pamela Lesh regarding the FERC cases in which Portland General is currently involved. This was followed by a brief time line of their interactions with FERC in this specific inquiry (see attached presentation page 2, "Ongoing Investigations"). A brief overview of the format of Portland General's presentation completed the introduction.

Portland General briefly outlined the steps and measures they had taken in their internal investigation. In the words of Lesh, "it has consumed numerous people for months." Lesh put forth an estimation of two thousand plus man hours of the legal counsel's investigative work and around one thousand man hours of network administrator effort. She reported that the internal investigation team restored all energy traders' documents (including email, word documents, and excel spreadsheets) for that time period and searched these for scenarios similar in form to those outlined

in the Enron memos. In addition Portland General claimed to have completed extensive interviews of both traders and management for potential activities over the FERC specified time period. Lesh reiterated the fact that Portland General's internal effort was both extensive and highly consuming.

Posting Errors

A.W. Turner who was implied as the head of Portland General's internal investigation presented the first area of acknowledged error referred to as "posting errors." Under a FERC Tariff regulation that is standard to all power marketers, when a company sells either energy or capacity to an affiliated entity, they must publish this offer and make it available to other non-affiliated entities over the internet. This is to eliminate the possibility of "sweetheart deals" and create greater transparency.

Portland General explained the large amount of trades with Enron as Buy/Sell transactions. Portland General had transmission rights through the BPA that Enron did not. Enron used Portland General to move its electricity across these areas to customers. All deals were done at index price on both ends with a small transaction fee for Portland General's services (estimated at \$3,000,000 for the entire period, about 10% of PGE's wholesale profits) Turner asserted that these were standard deals for the industry and legitimate but had no answer for the commissions inquiry as to what other parties also used this service.

Portland General in their internal investigation determined numerous errors in the recording of this process. Out of a total of 1,979 transactions with Enron, Portland General made 1,290 errors (roughly 66%). Nearly all the errors involved instances in which Portland General posted an offer and Enron accepted a different offer. In most cases Portland General was offering a flat product and Enron accepted a shaped product. Secondly on a number of transactions (160), Portland General was unable to determine whether or not they had posted the offer. Portland General's defense was that both the offer and acceptance were posted and this was more of a protocol error and in the end that no transparency was harmed.

Following the presentation on the identification of posting errors, Turner explained why they had occurred and why they had no negative impacts. Most errors had occurred from PGE offering a larger product and Enron taking a smaller product, the Portland trader took Enron's word on the deal and felt it unnecessary to change the Portland General offer. Other errors were explained as the result of carelessness. When asked why they had not been red-flagged or examined at the time, Pamela Lesh described a turbulent environment with great concentration given to many other problems, including the failed sales of the utility and the California crisis. Turner then explained that despite the fact that these transactions were erroneous they had no real effect or intended consequence. He further stated that all deals were indexed. Therefore, they had no impact on Dow Jones indices or other market indicators. Additionally all transactions were buy/sell so they had no impact on the bottom line of either of the companies. All positive aspects of the transactions (i.e. \$3,000,000 in transaction fees) were passed on to the customers as savings. He further stated that his investigative team undertook a study to determine the market value of these transmission deals (other WA Public Utilities Districts were offering the same services). His survey showed that Enron paid slightly more than they would have elsewhere but he doubted that Enron knew of these other avenues.

This section of the presentation was concluded with questions from the commission. Portland General responding to direct questions admitted that portions of these transactions could have been used to move power up to Oregon then back to California but that they had no knowledge of this. They used this question to outline their new strategy to alleviate these errors in the future, at the present they are not dealing with any affiliates and they have instituted a much stronger self auditing process.

PGE Response to May 8 Request

Pamela Lesh of PGE then introduced the next section. She indicated that while Portland General was not named as a respondent in the blanket request to power marketers in the Pacific NW, they willingly chose to respond. Portland General then elaborated further on their investigative efforts adding that in addition to earlier steps, they listened to trader phone conversations and conducted a thorough look into transcripts from the conversations of traders over the time period. They found that they had, “recollections of ‘sleeve’ transactions on 17 days.”

Jay Dudley from Portland General gave a brief overview of “sleeve” transactions. Explaining them as a deal in which a party steps in between two other parties who cannot make a deal and serves as the intermediary. His perspective was that these deals are usually the result of credit restrictions not allowing two parties to trade, and are commonly constructed by a broker to complete a deal. In many cases according to Dudley the company will not know that they are involved in a sleeve transaction when they purchase the energy they just know the party they purchased from, this distinction seemed irrelevant as he was presenting cases in which Portland General was the “sleeve”.

Following this opening, Dudley indicated that he had identified 17 days where power was being sleeved from Enron Power Marketing (EPMI). These deals occurred at the COB Hub. Dudley explained that these deals would run power from COB to the PGE system to John Day and then back south to COB. Dudley further stated that these “recirculating” types of transactions were common. He elaborated that they were requested by the California ISO a number of times to relieve congestion and move power down to Southern California through their transmission rights, though this example was not representative of any of the 17 days. He further stated that BPA had full knowledge of this use of transmission rights. Dudley’s explanation of why Avista was used was that the Portland General trader could not figure out how to post the deal and the Enron trader suggested Avista to him.

When Portland General received copies of the unredacted “Enron memos” from FERC they realized that they were explicitly mentioned in documents on how to conduct trading schemes. They used this information to compare their actions with those in the memos and found that the estimation of 17 days was in actuality only 14 days. Over this period, the flow of energy through PGE’s system in these deals was only 2500 MWH. In addition Dudley quickly mentioned that of these 14 days on two days for a total of seven hours power was taken from California and sold back at prices over the FERC cap. Portland General found no other records of participation witting or unwitting in any other of the named schemes. They made the unprompted admission that transcripts against their traders sounded very damaging but were simply made during periods of high stress and were really

not so indicative or incriminating when looked at from a larger perspective.

PUC Commission Questioning

The commission then opened up a line of questioning, with Chairman Hemmingway asking if there had been direct contact with Tim Belden. Portland General looked somewhat shocked but said they had no knowledge of any interactions. The commission then asked why these deals had not been questioned at the time, Dudley indicated that traders had noted the peculiarity as evidenced by phone conversation transcripts and had brought concerns to their supervisors but supervisors determined that these trades were “unusual but not uncommon” and so the news did not leave the trading room.

Again the commission asked if PGE traders or management had any knowledge of participation in any of the schemes outlined by Belden, Dudley responded that they did not. He explained that Portland General had no knowledge of anything Enron was doing and that they were a small part of these transactions and in the dark as to whether they were a part of any larger schemes. He also indicated in response to a commission question that the investigation had only focused on responding to FERC and so they had not looked specifically into any type of analysis of whether any activities had been done in concert with Mr. Belden. Finally when asked, Dudley and Lesh indicated they had no idea why they had been singled out by FERC for further investigation.

The PUC Commission then gave its staff an opportunity to ask any questions that they wished, staff had no questions and received a rebuke from chairman Smith who indicated she was having a hard time understanding many of the concepts and allegations and wanted the staff to conduct a much deeper inquiry and study into this information. PUC Commission then thanked Portland General for the presentation and indication of the companies position in these matters but said that they were not entirely satisfied. The PUC indicated they would be meeting again in December to determine whether it would launch an investigation into potential wrongdoing.

Update to the OPUC on FERC Investigations

November 4, 2002

Ongoing Investigations

- February 13, 2002 Announcement of FERC Staff Investigations
- May 8, 2002 Data Request and Request for Admissions
- June 4, 2002 Show Cause Order
- August 13, 2002 Order Initiating Investigation
- Other Ongoing Cases:
 - California refunds
 - NW refunds
 - Snohomish PUD, Sierra Pacific, others' complaint proceedings

PGE Posting Errors

- PGE FERC tariff posting requirements
 - What is the requirement
 - What is the purpose of the requirement
- Discovery of administrative errors
- Subsequent process
 - Term transactions
 - Daily transactions
 - Pricing analysis
 - Regulatory involvement

Summary Of Administrative Errors

(1999 - 2001)

<u>Type of Error</u>	<u>Term</u>	<u>Daily and Real-Time</u>
No Posting Errors	16	673
PGE did not post offer to Enron	5	0
Accepted deal differs from offered product (both posted)	13	1,061
Miscellaneous posting errors	7	35
Unable to confirm PGE's posting	8	152
Errors in posting PGE's acceptance	1	4
More than one error in posting	4	0
Total Transactions	54	1,925

Impact of Posting Errors

- No impact on market prices
 - All transactions at index (price set by others)
 - Almost all transactions buys/resells
- Positive impact on PGE's NVPC
- Review of Enron alternatives to transacting with PGE shows PGE overall priced correctly

PGE Response to May 8 Request

- What PGE did
 - Interviews
 - Document searches
 - Listening to merchant phone conversations, transcriptions
- What we found
 - Recollection of “sleeve” transactions on the 17 days
 - Did not know at time of transactions, in May, or now whether these were part of any strategy
 - Why the sleeve with Avista

PGE Response to the Show Cause Order

- What PGE did
 - Received unredacted information from Enron
 - Analysis of associated transmission paths over 2000 and 2001
 - Further listening and transcriptions
 - Further interviews
 - Reviewed source data
- What we found
 - 17 days actually 14
 - Parking and lending
 - PGE transactions with California

PGE Investigation

- Procedural schedule
- Events to date
 - Discussion in DC in August with FERC Trial Staff
 - Discussion in DC in October with PGE Personnel to answer questions from FERC Trial Staff
 - Responded to approximately 100 FERC data requests
 - FERC Staff visited Portland October 21-24