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### **U.S. Energy Commission Hires Ex-Enron Lawyer**

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#### WASHINGTON

At the peak of the California energy crisis, Mary C. Hain was a lawyer at Enron Corp.'s Portland, Ore., trading hub, where she had a front-row view of practices that injected chaos into electricity markets and sent rates soaring.

She once scribbled: "Answer questions, say nothing. Answer questions, finger others." Those notes from October 2000 were reviewed later by investigators looking into market gaming among the energy traders whom she advised on legal matters.

Now, Hain is scheduled to take a new job -- at the Federal Energy Regulatory Commission, the government's energy watchdog. She will serve as a trial lawyer specializing in technical matters of energy rates.

Some observers of the energy industry are stunned by the hiring and question why federal regulators would employ an Enron insider who had worked closely with traders who have pleaded guilty to crimes. The decision has stirred long-held sentiments among some consumer activists that the energy commission wasn't sufficiently bothered by misconduct in the Western marketplace.

"As a lawyer, her knowledge of the schemes and apparent indifference to corruption seems like a very poor qualification as a regulator," said Robert McCullough, an Oregon energy consultant who scrutinized the actions of Enron employees during the company's troubling chapter in 2000 and 2001.

The hiring, which did not require commission members' approval, was first reported in the energy newsletter Clearing Up. Hain, 47, who most recently worked as an attorney near Tampa, Fla., is relocating to Washington and couldn't be reached for comment Friday.

Officials at the federal energy panel vigorously defended their hiring of Hain, who worked at the commission in the 1990s. She cooperated with investigators and never was accused of misconduct by authorities, they point out. Hain's efforts, they said, helped the government make criminal cases against her former Enron associates.

"I have every faith and confidence in her integrity," said William Froehlich, director of the energy agency's office of administrative law and Hain's supervisor at the commission before she worked for Enron from the late 1990s to 2001. "This was not hiring an unknown quantity."

Froehlich said that in vetting Hain for the job, he reviewed her testimony and depositions and concluded that she had no part "in dreaming up" the notorious trading schemes that roiled the state and landed her former associates in serious trouble.

Enron traders Timothy N. Belden, John M. Forney and Jeffrey S. Richter have pleaded guilty to charges related to manipulating electricity markets during the energy crisis. They have not been sentenced.

Enron's former top executives, Kenneth L. Lay and Jeffrey K. Skilling, are on trial in Houston on charges of conspiring to mislead the public about the company's financial condition but haven't been charged with manipulating Western power markets.

Hain's record with Enron is the subject of sharp disagreement.

Critics cite some of Hain's personal notes, which drew public attention a few years ago, as symptomatic of a deeply flawed corporate culture.

One handwritten phrase said, "No one can prove." Another personal note said, "Can they tell how much money we're making?"

The precise context and meaning of such phrases -- such as, "Answer questions, say nothing" -- is clear perhaps only to investigators who seized on them as potential leads in their various Enron probes.

In 2002, Hain told the San Francisco Chronicle that her job at Enron meetings was to advise colleagues on regulatory matters.

"I was their lawyer," she said.

In that role, she tried to protect her employer as the energy crisis sparked a regulatory backlash. The Senate Governmental Affairs Committee reported in November 2002 that Hain had tried to discourage FERC investigators "from taking any action that would hurt the vibrant wholesale market" for energy in the West.

McCullough, the consultant from Oregon who has closely studied the energy crisis, maintains that Hain had knowledge of Enron strategies that proved harmful to the West. Those included a 1999 incident in which Enron scheduled nearly 2,900 megawatts of electricity on a 15-megawatt transmission line between California and Nevada, causing higher prices and a minor power shortage. The scheme became a template for some of Enron's future market-gaming ploys.

McCullough said he found it improbable that although Hain sat next to Forney on Enron's energy trading floor, she "apparently never heard any of the extensive frauds going on around her."

Hain's advocates cite testimony she gave in 2002 as evidence that she was not involved in illegal trading strategies.

Under questioning by the Commodity Futures Trading Commission, Hain said she was not invited to regular traders' meetings led by Belden, even though she had sought invitations. Asked if a controversial memo that detailed questionable trading strategies had raised red flags, she responded: "I didn't really understand the trading strategies all that well.... I just can't tell you that anything concerned me that much because I don't claim to have understood it well enough."

For some, Hain's hiring stirs suspicions that FERC favors energy companies over ratepayers.

California officials contend that state electricity users were overcharged by \$9 billion during the energy crisis; the commission has indicated that it may eventually order about \$3 billion in refunds, but even that number was preliminary because of legal and administrative disputes.

"During the California energy crisis, FERC did a lot more to help companies like Enron and others manipulate the California energy market" than it did to protect the public, said Peter Navarro, a UC Irvine economics professor.

Such "regulatory neglect ... makes this hiring at least consistent, if both patently absurd and hugely imprudent."

One consumer activist took the view that Hain might bring useful skills to the regulatory agency -- in the manner that reformed burglars sometimes consult on security matters.

"I'm not alarmed by the FERC hiring, and if done well, it could actually prove to be a benefit to the agency," said Michael Shames, executive director of the Utility Consumers' Action Network in San Diego.

Froehlich said Hain had contacted him a few months ago about a different job.

"We started talking and it occurred to me this would be a good hire for our office," he said. "She had gas experience. She had electricity experience -- and she was available."

He added, "I didn't realize there would be this firestorm."

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