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Ex-Enron lawyer lands in federal energy post; Hiring draws fire; scope of her role at failed firm debated

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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 on a new job--at the Federal Energy Commission, the government's energy watchdog. She will serve as a trial lawyer, specializing in technical matters of energy rates.

The hiring decision has some observers questioning why federal regulators would hire an Enron insider who worked closely with traders that have pleaded guilty to crimes. It has stirred long-held sentiments among some consumer activists that the energy company 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 has scrutinized the actions of Enron employees during the troubling chapter of 2000-01. The hiring, which did not require approval of commission members, was first reported in the energy newsletter Clearing Up.

Hain, 47, who worked most recently as an attorney near Tampa, is relocating to Washington and was not immediately reachable for comment. But officials at the federal energy panel vigorously defended the decision to bring on Hain, who worked at the commission in the 1990s. She cooperated with investigators and never was accused of misconduct by government authorities, they pointed 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 into 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 got 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 for 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. The Senate Governmental Affairs Committee reported in November 2002 that Hain had tried to discourage Federal Energy Regulatory Commission investigators "from taking any action that would hurt the vibrant wholesale market (for energy in the West)."

McCullough, who has 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."

Froehlich said that Hain 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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