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Grandma Millie, Meet the Detectives: An Unlikely Team Unmasks Enron

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It was in a spartan office in Santa Cruz that Kenny Swain met Grandma Millie — and where a little Washington utility drew first blood in its feud with **Enron** Corp.

Swain was on a squad of unlikely detectives that included a retired teacher, a high-tech entrepreneur, an anthropologist and a recent political science grad. Swain himself was a former employee of an organic farming group.

Their task: to search more than 2,000 hours of recorded conversations between Enron energy traders.

Their mission: to uncover scheming and ill intent that had gone unnoticed by federal investigators.

"Instantly, my ears perked up," said Swain, recalling the moment a year ago when he heard Enron traders gloat about fleecing "Grandma Millie" and other innocent Californians.

"I rewound the tape and listened again to make sure I'd heard what I thought I had. Then I played it again for all the other listeners. They were aghast."

In a memorable subplot to the Western energy crisis of 2000-01, it has fallen to the dogged Snohomish County Public Utility District to uncover — and bring to the world's attention — some of the most embarrassing material that remains in the possession of the Houston-based energy firm.

Enron, of course, is the onetime Wall Street wonder that tumbled into bankruptcy proceedings in December 2001, becoming a national metaphor for white-collar fraud. Its tormentor is a utility with 300,000 customers in suburban and rustic communities between Puget Sound and the Cascade foothills north of Seattle.

It was Snohomish that unearthed the tape — later aired repeatedly on television and radio news — of an Enron trader chanting: "Burn, baby, burn. That's a beautiful thing." At the time, a wildfire threatened California's electricity supply.

Only last month, Snohomish investigators made public a tape of an Enron trader persuading a Nevada generator to shut down for a day in January 2001 as rolling blackouts plagued California. The utility also found signs that top Enron executives had paid close attention as traders tried out questionable ploys in western Canada, similar to "gaming" tactics used later in California.

Behind such revelations is a tale of modern data sleuthing and old-fashioned tenacity that dug up evidence that had eluded the Justice Department and the Federal Energy Regulatory Commission in their investigations of Western energy market manipulation.

The Snohomish squad is "like the little engine that could," said Debbie Swanstrom, an attorney who has represented the utility. "They won't give up. They're going to get over that hill."

Snohomish's motive is no mystery: It is trying to escape a \$122-million claim made by Enron after the utility canceled a nine-year energy contract signed during the crisis, a time of record power prices across the West.

Enron's demand amounts to \$400 per customer for electricity that was never delivered.

The pressure that Enron put on Snohomish to sign its power supply deal was akin to paying a crook to leave you alone, said Eric Christensen, an attorney for the Everett, Wash.-based utility.

"It amounts to a protection racket," Christensen said.

According to Snohomish, Enron wreaked such havoc on the marketplace through trickery and unlawful scheming that the long-term deal should not be upheld. Enron is suing for the money in U.S. Bankruptcy Court. The two sides also are battling before the federal energy commission.

In what may be a pivotal moment in the feud, the commission agreed March 11 to address the matter this year. At stake is more than \$500 million in disputes between Enron and Western customers, including Snohomish and utilities in Palo Alto and Santa Clara, Calif., and in Nevada.

"We will not rest until the wooden stake is punched through the heart of the Enron lawsuit against us," said Sen. Maria Cantwell (D-Wash.), who has embraced Snohomish's cause.

Enron executives declined to discuss their conflict with Snohomish, noting the continuing legal deliberations. In court, they have maintained that the disputed contract is a legal agreement for which the utility should be held accountable.

Behind much of Snohomish's effort lay a simple insight: The actual words of Enron traders, captured in tape recordings, might illuminate actions in a way that documents couldn't. Such phone conversations are taped routinely to preserve a record of what is said during the helter-skelter of oral deal making.

"We did some sleuthing to try to find what happened to these types of telephone calls," attorney Swanstrom said.

Snohomish lawyers tracked down recordings seized by the FBI from Enron's Western trading hub in Portland, Ore. After a short legal tussle with the Justice Department, the utility was granted access in return for sharing the transcripts with law enforcement.

The recordings arrived in February 2004 at **Power Economics**, a Santa Cruz energy consulting firm hired by Snohomish. The firm's president, Carl Pechman, dipped into the college town's well-educated white-collar labor pool to find Kenny Swain and the other electronic operatives and pulled together a cut-rate war room.

"We went to Costco and bought a bunch of plastic tables and chairs," Pechman recalled. "We rented a bunch of laptops."

Pechman tutored his detectives on several complex trading schemes known by colorful nicknames dreamed up by Enron traders. They learned about "Death Star," a way to hoodwink California's grid operator by creating an illusion of congestion on power lines, and "Fat Boy," a ploy to create the appearance of power shortages.

Then they donned headphones and started to wade through 2,800 hours of recordings. Much of the obscenity-laced chatter proved little, but gradually the team accumulated a stockpile of revelations.

In one conversation, a trader asks: "Do you know when you started over-scheduling and making buckets of money on that?" In another, as the crisis was escalating in August 2000, a trader describes the tactics of an Enron colleague with a crude phrase that amounts to, "He just [fleeced] California."

The room would become electrified with each new tidbit.

"It was like, 'Oh my God, I don't believe they're saying this,' " Pechman said.

Snohomish's disclosures were broken nationally in The Times in mid-May. Two weeks later, CBS News aired excerpts of the recordings. Politicians and regulators took notice.

On June 18, California Atty. Gen. Bill Lockyer sued Enron, contending that the state had lost hundreds of millions of dollars because of the company's misdeeds.

"Grandma Millie ought to get her money back," he declared.

That same day, federal energy regulators said they would conduct their own review of the tapes as potential evidence in regulatory proceedings. Soon after, they ordered Enron to return \$32.5 million in profit gained in the West; its staff recently suggested that the figure might approach \$1.7 billion.

Prosecutors had cited cost as one of the reasons they had not transcribed the tapes themselves. Snohomish accomplished the job for about \$130,000.

In September, the dispute escalated. Armed by federal regulators with broad authority to search for evidence, Snohomish asked Enron for more tapes as well as computer servers and electronic databases.

The search took Snohomish's team to one Houston storehouse after another, past wary Enron lawyers, barbed wire and fortified doors, said Robert McCullough, a former Oregon utility executive who led the drive. At one facility, the group found piles of recording equipment filled with unreviewed data.

At another stop, McCullough strode among a sea of flat-screen computers and towers of documents.

"It was like I had walked into the warehouse in the last scene of 'Raiders of the Lost Ark,' " he recalled.

All along, Snohomish jostled with Enron lawyers who were in no hurry to release the material,

arguing that they needed more time to process the large data request.

In November, a federal administrative law judge rebuked Enron.

"This is a clear case of disobedience to a discovery order by a party that should know better," wrote Judge Isaac D. Benkin of the Federal Energy Regulatory Commission. Benkin imposed sanctions on Enron starting at \$500 a day for its failure to comply.

On Jan. 31, Snohomish filed a new cache of evidence with federal energy regulators. The recent findings suggest that knowledge of energy schemes may have extended to the highest reaches of Enron and that the company may have been actively testing its techniques of market exploitation before California's energy crisis.

Snohomish found, for example, a notation on the computerized calendar of Chief Executive Jeffrey K. Skilling that he met with in-house counsel on June 2, 2000, to discuss trading activities in Canada that had been investigated by Canadian officials. Snohomish also found an internal Enron file on the matter marked "office of the chairman" believed to be from about the same time.

Canadian authorities had cleared Enron and Powerex, a unit of **BC Hydro**, of wrongdoing in 1999. But the recent Snohomish filing reopened the controversy north of the border, and Canadian officials are reviewing the matter.

In light of such finds, some contrast the Washington utility's relentless digging with what they see as the less aggressive approach of federal energy regulators.

"This is the kind of thing that the Federal Energy Regulatory Commission should have done not just against Enron but against all the generators that were 'gaming' the system," said Peter Navarro, a UC Irvine economist. "If that had been done properly, my belief is that California would have been on the receiving end of billions of dollars more from the companies for what happened."

A spokesman for the federal panel said it moved effectively against Enron and others, reaching settlements with several electricity suppliers, valued at more than \$1 billion in all, to put to rest charges of market misconduct during the energy crisis. What's more, it's unclear whether the Snohomish evidence has broadened the commission's understanding of Enron's conduct, FERC spokesman Bryan Lee said.

Lee acknowledged that the evidence vividly showed the "inflammatory rhetoric" and "locker room mentality" of certain traders. But "the jury is still out" on whether the course of regulatory proceedings would be changed, he maintained.

For its part, Snohomish has no plans to back down.

"We believe," attorney Christensen said, that "we're obligated to fight this every step of the way."

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