KEVIN V. RYAN (CSBN 118321)
United States Attorney

LESLIE R. CALDWELL (NYSB 1950591)
Director, Enron Task Force

ORIGINAL FILED
JAN 30 AM 11:56
CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. JEFFREY S. RICHTER, Defendant.	No.: CR 03 0026 WHA VIOLATIONS: 18 U.S.C. §§ 371, 1001 – Conspiracy to Commit Wire Fraud; False Statement SAN FRANCISCO VENUE

INFORMATION

The United States Attorney charges:

1. At all relevant times, Enron Corp. ("Enron") was a publicly traded Oregon corporation with its headquarters in Houston, Texas. Through its subsidiaries, Enron was engaged in the purchase and sale of natural gas and electricity, construction and ownership of pipelines and power facilities, provision of telecommunications services, and trading in contracts to buy and sell various commodities. Before December 2, 2001, Enron was the seventh largest corporation in the United States.

2. From approximately 1997 to 2002, the defendant JEFFREY S. RICHTER was employed by Enron. In late 1997, he moved to Enron's West Power Trading Division ("West

Power") in Portland, Oregon. In June 1999, defendant RICHTER became a trading assistant on West Power's Short-Term California desk. In January 2000, Enron promoted defendant RICHTER to manage the Short-Term desk. In that capacity, defendant RICHTER managed electricity traders, schedulers and analysts, and oversaw the marketing (buying and selling) of electricity through the California wholesale markets. Defendant RICHTER was also responsible for the Short-Term desk's profits and losses. Under his management, the desk's profits increased 1400% in one year.

3. In 2000, the California wholesale electricity markets were operated by two institutions: the California Power Exchange ("PX") and the California Independent System Operator ("ISO"). The PX acted as the primary marketplace for wholesale electricity in California. The ISO managed the State's electricity transmission grid, which included maintaining a balanced energy market, controlling transmission flows over the electric power lines, and purchasing "ancillary services" (readily available emergency stand-by power).

4. The PX operated two electricity markets, the "day-ahead market," for energy delivery the following day, and the "day-of market," for energy delivery the same day. The ISO operated the "real-time" electricity market. Through the "real-time" market, the ISO bought and sold power to account for and correct any imbalances between supply and demand during each operating hour. Through these markets, generators and energy marketers (including Enron) bid for and scheduled fixed amounts of electricity for delivery to their wholesale and retail customers (known as "load").

5. The ISO also managed the actual flow of electricity across California's electricity transmission system. The transmission system is a set of interconnecting power lines that carry electricity into, within, and out of California. These power lines vary both in distance covered and electricity capacity. In part to ensure that electricity supplies did not exceed transmission capacity, the ISO required energy marketers and generators to submit transmission schedules that identified the amount and type of electricity they proposed to transmit, the source of the electricity, and its destination.

6. Depending upon the total amount of electricity scheduled and the net direction of

the electricity flow, a power line could become "congested." When congestion occurred, the ISO operated day-ahead and hour-ahead "transmission" markets, in which energy suppliers were allowed to submit "adjustment" bids and/or revised schedules. The bids would indicate the price (or amount of money) a supplier would accept to "relieve" congestion by cutting or curtailing its scheduled delivery of electricity. A supplier could relieve congestion by scheduling energy in the opposite direction of the congested line (a "counterflow"). Based on the scheduled energy and the submitted adjustment bids, an ISO computer program would calculate a "congestion management fee." The fee acted as a toll for using an overcrowded line and was charged to those suppliers who ultimately transmitted their electricity on the line. The proceeds of that toll were paid to two groups: (1) the owners of the Firm Transmission Rights ("FTRs") on the congested line; and (2) the entities who submitted successful bids or schedules to "relieve" congestion.

7. As noted above, the ISO also operated day-ahead and hour-ahead markets for ancillary services. Through these markets, the ISO bought the right to reserve stand-by electricity generation capacity that it could draw upon in the event of a sudden loss of electricity supply. By regulation, the ISO was required to have an amount of generation capacity on stand-by equal to 7 percent of the total amount of scheduled demand for the State. If the ISO anticipated that it would not have enough stand-by capacity available, then it would be forced to declare an "Emergency."

8. The ISO was also responsible for calculating and billing all market participants on a monthly basis. Depending on the amount of electricity and ancillary services bought or sold and the amount of congestion fees due or owed, the ISO would issue a net credit or charge to each marketer, generator, and customer. These payments were sent to the participants, including Enron, by wire transmission through the Bank of America in San Francisco, California.

SCHEME TO DEFRAUD

9. In or about 2000, within the Northern District of California and elsewhere, the defendant JEFFREY S. RICHTER and others did knowingly devise and attempt to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises from electricity customers in California and

other participants in the California wholesale electricity markets.

10. It was part of the scheme and artifice that defendant RICHTER and other Enron officers and employees, directly and indirectly, engaged in trading strategies that involved the submission of false and fraudulent schedules, bids and information to the ISO.

"Load Shift"

11. Specifically, defendant RICHTER and others devised and engaged in a strategy referred to as "Load Shift." In connection with the "Load Shift" strategy, defendant RICHTER and others knowingly filed, and caused to be filed, energy schedules and bids that over-represented the load or demand for electricity Enron intended to serve within a particular area of California in order to create the appearance of congestion on a transmission line. The purpose and effect of this strategy was to manipulate the ISO's calculation of congestion management fees, artificially inflate the market price for congestion, earn congestion payments that would otherwise not be available, and obtain increased fees for Enron as a result of its ownership of FTRs.

"Get Shorty"

12. Defendant RICHTER and others also devised and engaged in a strategy referred to as "Get Shorty." In connection with the "Get Shorty" strategy, defendant RICHTER and others knowingly filed, and caused to be filed, bids in the ISO's day-ahead ancillary services market that falsely represented to the ISO that Enron committed and intended to supply ancillary services that Enron did not have, and did not intend to supply. The strategy required Enron to fabricate the source and nature of the ancillary services it agreed to supply in exchange for payments from the ISO. The purpose and effect of "Get Shorty" was to sell fictitious ancillary services at a high price in the day-ahead market, and then by cancelling the commitment and purchasing the services in the hour-ahead market at lower price, to reap the difference in price between the two markets.

13. As a result of the scheme and artifice to defraud, Enron manipulated prices in certain wholesale electricity markets and obtained fees and payments in excess of what it would have received with accurate schedules and bids.

COUNT ONE: (18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud)

14. Paragraphs 1 through 13 of this Information are realleged and incorporated here as though set in full.

15. In or about 2000, within the Northern District of California and elsewhere, the defendant

JEFFREY S. RICHTER

and others known and unknown, conspired to devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted wire communications in interstate commerce, all in violation of Title 18, United States Code, Section 1343.

16. Among the means and methods by which defendant RICHTER and his co-conspirators would and did carry out the conspiracy were those described in Paragraphs 10 through 12 of this Information, as well as others.

17. In furtherance of the conspiracy and to effect the objects thereof, defendant RICHTER and his co-conspirators committed and caused to be committed the following overt acts in the Northern District of California and elsewhere: filing schedules and bids with the ISO which caused the monthly transmission of payments by the ISO to Enron for congestion fees and ancillary services, sent by wire transmission through the Bank of America in San Francisco, California.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO: (18 U.S.C. § 1001 - False Statement to a Government Agency)

18. Paragraphs 1 through 13 of this Information are realleged and incorporated here as though set in full.

19. On or about September 26, 2002, within the Northern District in California, in a matter within the jurisdiction of the Federal Bureau of Investigation (FBI), an agency within the Executive Branch of the United States of America, the defendant

JEFFREY S. RICHTER

did knowingly and willfully make and cause to be made a materially false, fictitious and fraudulent statement and representation.

20. Specifically, during an interview with the FBI and the United States Attorney's Office for the Northern District of California, defendant RICHTER did knowingly and willfully state that he never intentionally deceived anyone when submitting power schedules, when in truth and in fact as he well knew at the time, he had submitted false bids to receive congestion payments and had intentionally deceived participants in the California wholesale electricity markets, as set forth above.

All in violation of Title 18, United States Code, Section 1001.

DATED: 1/30/05

KEVIN V. RYAN
United States Attorney

CHARLES B. BURCH
Chief, Criminal Division

(Approved as to form: ____________________)
AUSAs: Robbins, Jacobs, Tenorio-Kutzkey