

**Statement of Jean C. Frizzell Before the
United States Senate Subcommittee on
Consumer Affairs, Foreign Commerce and Tourism**

May 15, 2002

My name is Jean C. Frizzell. I am a partner in the law firm of Gibbs & Bruns, L.L.P. ("Gibbs & Bruns") in Houston Texas. Gibbs & Bruns is a litigation law firm whose practice consists primarily of the prosecution and defense of commercial disputes.

In late November of 2000, our law firm was engaged by Enron to defend Enron Power Marketing, Inc. and Enron Energy Services in previously filed class action lawsuits brought in California asserting claims that Enron and others had manipulated the markets in California for wholesale electrical power. Gibbs & Bruns was one of several firms that Enron hired, including Brobeck, Phleger & Harrison, L.L.P. of San Francisco, to defend the class actions. Enron also hired regulatory specialists to represent the Enron entities in related proceedings before the Federal Energy Regulatory Commission ("FERC"). The draft memorandum co-authored by Gary Fergus and me that is one of the subjects of this hearing was prepared by litigation counsel during the course of preparing to defend the class action suits.

As is required in the defense of any lawsuit, one of the immediate tasks undertaken by the defense team was to begin a preliminary investigation of the potential merits of the claims and the potential defenses to the claims made in those suits. In this case, very shortly after we were engaged, Enron provided the defense team copies of the memorandum authored by Steve Hall and Christian Yoder. I and other members of the defense team were thereafter involved in a series of interviews with a number of Enron traders wherein the traders described the California electricity market, the strategies outlined in the Stoel Rives' memorandum and their understanding of the potential impact of those strategies on the California market.

During the course of these interviews, we were informed that Enron had ceased trading in the real-time market, and that the strategies discussed in our draft memorandum were no longer being used.

Following our interviews, I and other members of the defense team prepared the initial draft of the memorandum on Mr. Fergus' portable computer. Mr. Fergus agreed to send the draft to us for our review and comments. However, we decided that before we finalized the status report Mr. Fergus would have Enron's head trader in Portland review it to make sure it was accurate.

Approximately a week later, I received and reviewed the draft of the status report. About two weeks later, I reviewed comments from another member of the defense team. My understanding was that, consistent with our original discussion, Mr. Fergus was going to meet with the head trader to

discuss the draft status report before finalizing it. However, I did not participate in those discussions and had no further involvement in the draft status report.

The defense team, including myself and my firm, were involved in the defense of existing class action lawsuits. As trial lawyers, we were attempting to gather information and develop arguments that would assist in the defense of Enron during a trial or trials of the civil lawsuits brought in California, involving strategies that were no longer being utilized. We were not attempting to and did not condone or authorize the strategies themselves, and we played no part in their development or execution.

In light of the fact that Enron has waived its attorney client privilege, I am prepared to answer any questions the Committee may have concerning my role as a trial lawyer in the defense of the California class actions.