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 ADMINISTRATIVE MARKING
 E.O. 12065, Section 8-102
 By *JMV* NARS, Date *5/2/2012*

MEMORANDUM

February 1, 2002

TO: David M. Becker, General Counsel

FROM: Alan Beller, Director, Division of Corporation Finance *FR 2 BKL*

RE: Correspondence from Chairman W.J. "Billy" Tauzin, Committee on Energy and Commerce

In correspondence addressed to Chairman Pitt dated January 23, 2002, Congressman W.J. "Billy" Tauzin, Chairman of the House Committee on Energy and Commerce, asked that the Commission provide information in response to questions related to the Committee's consideration of issues related to Enron Corp. These questions are follow-up questions to a December 7, 2001 letter from Representative Tauzin and Congressman James C. Greenwood, Chairman of the Subcommittee on Oversight and Investigations.

The four questions presented in the letter from Chairman Tauzin are set forth below in bold italics, and each question is followed by the Division's response.

1. For the following filings by Enron Corp., please indicate whether the Commission reviewed the filing and if so whether the Commission commented on it:

- a. 10Q for the first quarter of 1997***
- b. 10Q for the second quarter of 1997***
- c. 10Q for the third quarter of 1997***
- d. 10K for the fiscal year ended 12/31/97***
- e. 10Q for the first quarter of 1998***
- f. 10Q for the second quarter of 1998***
- g. 10Q for the third quarter of 1998***
- h. 10K for the fiscal year ended 12/31/98***
- i. 10Q for the first quarter of 1999***
- j. 10Q for the second quarter of 1999***
- k. 10Q for the third quarter of 1999***
- l. 10K for the fiscal year ended 12/31/99***
- m. 10Q for the first quarter of 2000***
- n. 10Q for the second quarter of 2000***
- o. 10Q for the third quarter of 2000***
- p. 10K for the fiscal year ended 12/31/00***
- q. 10Q for the first quarter of 2001***
- r. 10Q for the second quarter of 2001***

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During the period in question, the Division of Corporation Finance examined the Form 10-K for the fiscal year ended December 31, 1997 and the Forms 10-Q for the first and second quarters of 1998. The financial statements and management's discussion and analysis of these filings were examined in connection with the Division's review of an initial public offering registration statement of notes filed by two parties related to Enron, Enron International CPO, LP and Enron International CPO, Inc. On these filings, the Division issued comments on Enron Corp.'s Form 10-K for the year ended December 31, 1997. The Division did not issue comments on the Forms 10-Q for the first and second quarters of fiscal 1998. The Division also issued comments on the registration statement, but the registration statement was withdrawn and Enron International CPO, LP and Enron International CPO Inc. never responded to the comments.

Enron filed a Form S-3 on January 12, 1999 to register the sale of securities. The Division monitored this filing for compliance with the comments issued on the Form 10-K for fiscal year 1997. As part of this process, the Division also reviewed the financial statements and the management's discussion and analysis in the Form 10-Q for the third quarter of 1998. As part of this review, the Division raised one additional comment on the Form 10-K for the fiscal year 1997 and did not raise any comments on the Form 10-Q.

The Division of Corporation Finance also examined the Forms 10-K for the fiscal year ended 1995 and 1996 for Enron Corp. and the Forms 10-Q for the first quarter of 1997. These documents were reviewed in the fall of 1996 and May 1997 in conjunction with Enron Corp.'s stock for stock merger proxy statement with Portland General Corp. The Division did not raise any comments on the Form 10-Q for the first quarter of 1997. The Division did not raise any comments on the Form 10-K for fiscal year 1996, and the Division raised three comments on the fiscal year 1995 Form 10-K.

The Division also examined a stock for stock merger proxy statement between Enron Corp. and Enron Global Power and Pipelines LLC in October 1997. Enron Global Power and Pipelines LLC was a 52% owned subsidiary of Enron at the time. The Division raised one comment on the Enron Corp.'s Form 10-Q for the second quarter of 1997.

The Division monitored a Form S-3 registration statement filed September 12, 1997 for compliance with the comments it raised on Enron's periodic reports in the Enron Global Power and Pipelines LLC merger transaction. The Division issued one comment on the Form S-3 notifying Enron that the filing was being monitored for compliance with the comments issued on Enron's periodic reports.

2. If the Commission commented on any filing other than Enron Corp. 10K for the fiscal year ended 12/31/97 and 10Qs for the first, second and third quarters of 1998 please include a copy of those comments with your response.

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The Division's comment letters and related materials from Enron's mergers with Portland General Corp. and Enron Global Power and Pipelines LLC are provided with this memo. All related materials and filings, including the Form S-3 filed on September 12, 1997 and the Form S-3 filed on January 12, 1999 referred to above are provided also.

Additionally, in April 2000, Enron filed a Form S-3 to register the secondary sale of common stock by a non-controlling shareholder holding restricted securities. The Division completed a limited scope review of this filing. The only part of this filing that was examined was the opinion on the legality under state law of the issuance of these securities, which was examined as part of an interest in these opinions in filings generally. The Division's comment letters and the related materials are provided with this memo. All related filings are provided also.

3. Does the Commission have a policy on the review of company filings? If so, please explain. If there is a policy, does the apparent three-year window in which Enron Corp.'s annual reports were not reviewed violate that policy?

It is believed that prior to 1980, the Division of Corporation Finance reviewed nearly all filed documents. The documents examined by the Division are comprised of initial public offerings, other transactional filings, such as offerings of securities or merger transactions, and periodic reports, such as annual and quarterly reports. In 1980, as a result of the increase in the amount of transactional filings and the number of public companies, the Division determined to implement a "selective review" system. This system acknowledges that all filings cannot be examined by the Division and establishes criteria, which allow the Division to use its resources most productively.

The selective review system contemplates that almost all new entrants into the disclosure system will be fully reviewed. Filings, other than initial filings, are chosen for examination based upon specific criteria. The types of reviews completed by the Division include a full review, a financial statement review and a limited review, commonly referred to as a monitor. A "full" review is a complete examination of the filing. A "financial statement" review is a review of a company's financial statements and its supplementary analysis of those financial statements, known as management's discussion and analysis. A "monitor" is a limited scope review of a specific legal, accounting or other disclosure item or items. A substantial number of filings are not subject to any staff review.

The Division makes a review decision based on a summary examination ("screens") on all incoming transactional filings and, on a time available basis, on Forms 10-K to determine if they fall within the screening criteria, which may trigger one of the levels of review detailed above. The characteristics that would lead to a filing being selected for review are established periodically in discussions among the Division's senior staff. The selection criteria vary over time and reflect changing market and economic conditions as well as then current known legal, accounting and disclosure issues. The screening criteria are also designed to identify companies whose financial information suggests on its face that they are experiencing financial difficulty or whose

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filings on their face based on the screening process appear most to warrant examination. When screening annual reports on Form 10-K, the Division also considers the amount of time that has passed since the last review of the company's financial statements.

To determine which companies are having financial difficulty, the Division considers liquidity ratios and profit and performance ratios. Also, the Division subscribes to a software database that identifies issuers with financial characteristics similar to those of pre-bankrupt entities. This software database also detects those companies that significantly outperform or under-perform their industry based on return on assets ratios.

The Division may also select filings containing specific legal issues, particular accounting issues and various transactions, such as management-led cash buy-outs, for review. The screening criteria in these areas are dynamic and change as companies offer different types of securities or employ novel financing techniques, transactions become more complex, and new trends develop.

If companies meet any of the profiles outlined in the three preceding paragraphs, they are generally selected for a full review, assuming the Division has sufficient resources to complete that review in a timely manner.

Representative Tauzin's letter asks if not reviewing Enron Corp.'s Form 10-K in the last three years violated our screening policy. It did not. Enron Corp.'s transactional filings were screened in each of the years since its last review was completed on March 5, 1999. On each occasion, the screening process for the filings did not result in a selection for review, with the exception of the April 2000 Form S-3 relating to the legal opinion. As mentioned above, a major component of our screening criteria is whether a company's financial statements were recently reviewed. The Division's review goal seeks a review of financial statements at least every three years. The three year goal is not always met. In Enron Corp.'s case since the Division had looked at Enron Corp.'s financial statements up to the period ended September 30, 1998, this screening criterion was not triggered and would not have been triggered until September 30, 2001. Prior to the time the September 30, 2001 Form 10-Q was due, November 14, 2001, our Division of Enforcement had begun its investigation.

4. During the first quarter of 2001, the media began to report questions about some of Enron Corp.'s disclosure, or lack thereof, in their filings. At the time did the Commission review any of Enron Corp.'s filings to ensure that investors were in fact provided with material information necessary to make informed investment decisions?

The Division did not review the filings of Enron Corp. during the first quarter of 2001. In August 2001, the Division identified Enron Corp.'s Form 10-K for the year ended 2001 as a future candidate for a full review. This was based on media reports concerning Enron Corp.'s derivative disclosure. Enron Corp.'s Form 10-K for the fiscal year 2001 would contain its first audited derivative disclosure presented in accordance

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with a new accounting pronouncement regarding derivatives, which would in any event have increased the likelihood of review.