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FROM ENRON

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**ENRON
CORP**

**Interoffice
Memorandum**

To: Distribution
From: Ron Teitelbaum *RT*
Subject: Sun King Commission

Department: Corporate Tax
Date: March 12, 1993

As part of their original contract negotiations Texas Ohio Power ("TOP") agreed to pay a commission to Sun King ("SK") equal to 6% of gross revenues from electricity sales at Puerto Questale. The commission was assumed by EDC when the TOP contract was acquired, later assumed by PQPC as part of the transfer of the PPA, and finally assumed by EEG as part of the management fee arrangement.

The IFC has objections to PQPC paying the commission to SK as this payment has the potential to interfere with PQPC's ability to service the debt owed to the IFC. At any time that plant capacity fell below a certain level, there would not be enough cash flow to pay both SK and the IFC. The management fee arrangement between PQPC and EEG included two components. The first was a regular management fee. The second component was a fee based on the capacity of the PQPC plant. This second component is intended to provide EEG with enough cash to satisfy the liability to SK. The capacity based fee is only payable when capacity is above a certain threshold. The IFC accepted the second component of the management fee contract because it was only payable when PQPC was profitable enough to pay its debt service also.

KPMG has informed Enron that the commission to SK is not deductible in Guatemala, except to the extent that it does not exceed 1% of the gross receipts of the payor. The restriction on deductibility is because SK is not a resident of Guatemala. If the commission is paid out of EEG, the result will be an additional income tax burden equal to 1.5% of the gross receipts of the project for its entire period of operations. This totals about \$14 million for the entire 15 year contract. The deductibility of 1% of gross receipts is lost because EEG's gross receipts are much less than PQPC's.

It is possible to improve this situation if the liability to pay the commission is moved back to PQPC under terms that should be acceptable to the IFC. This has the benefit of being able to use the 1% of gross receipts deduction in Guatemala. The U.S. tax rate will be 36%, which works out to be more than the effective Guatemalan tax rate. Absorption of most of the additional Guatemalan taxes through the U.S. foreign tax credit is possible. This minimizes the impact of the additional Guatemalan taxes on earnings.

Senate Finance Committee

EXHIBIT 25

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To satisfy the IFC Enron could agree to make cash advances to PQPC whenever the 6% commission due to SK exceeds a formula amount. The formula amount will be similar to the second component of the management fee as it will be payable only when plant capacity is above a certain threshold. Whenever the formula amount is more than the 6% commission, PQPC will pay back the advances to Enron. This leaves the parties in about the same position they would have been in before, because Enron would have had to fund any deficit that occurred at EEG.

The mechanics of moving the liability to pay SK back to PQPC are minimal. PQPC and EEG mutually rescind their management fee contract and enter into a new contract where only a management fee is paid.

RT/acb:skcomm.gua

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