

IV. Compensation Through Bonuses and Stock Options Based on Financing

Bonuses and stock options were awarded when project financing was obtained, rather than upon successful completion of a project.

One of the motivating factors overlaying Enron's foreign project development was the incentives (bonuses) awarded to its developers (employees and officers) for project successes. Enron's definition of project success may account for why Enron developers negotiated with an in-country group such as Sun King and dealt later with problems resulting from such sponsorship.¹³⁴

Enron/EDC adopted the Enron Development Corp. Project Participation Plan (the Plan).¹³⁵ The stated purpose of the Plan was:

[T]o provide a means whereby certain selected Employees . . . may develop a sense of proprietorship and personal involvement in the development and financial success of Enron Development Corp. (the "Company"), to attract and retain Employees of outstanding competence and ability, to encourage them to devote their best efforts to the business of the Company, and to reward them for outstanding performance benefiting the Company and its stockholders.¹³⁶

The "Plan Payment Date" refers to four potential payment dates:

- (1) the date upon which the construction of, improvements to, or refurbishment of such Project is complete ("construction date");
- (2) the closing of permanent limited recourse financing ("financial closure date");
- (3) the date that is six months after the commencement of commercial operations ("operation commencement date"); or
- (4) the date upon which occurs a transfer resulting, directly or indirectly, a decrease in Enron's aggregate direct or indirect ownership interest in such Project or assets ("transfer date").¹³⁷

Thus, success for the Guatemala Project was met by obtaining the \$71 million project funding from the International Finance Corporation (a division of World Bank).¹³⁸

¹³⁴ Interview Rodney L. Gray, Consultant, in Houston, Tex. (September 17, 2002) (Mr. Gray was formerly the Vice President and Treasurer, Enron Corporation, and Chairman and Chief Executive Officer of Enron International) (Mr. Gray stated that he was not in favor of Enron International, Inc. awarding its developer bonuses at project (limited recourse) financial closure. Instead, he felt the bonuses should have some link to the eventual commercial success of a given project.).

¹³⁵ Enron Development Corp. Project Participation Plan (effective Jan. 1, 1993 to Dec. 31, 1995) (EC 001936341-EC 001936371, Exhibit 49) [hereinafter Enron/EDC 1993 Participation Plan] (Effective January 1, 1996, the Plan was amended and restated, extending the term of the Plan until December 31, 2000..

¹³⁶ Enron/EDC 1993 Participation Plan, *supra* note 135, at 1 (EC 001936347).

¹³⁷ Enron/EDC 1993 Participation Plan, *supra* note 135, at 2-6 (EC 001936350 through EC 001936352).

¹³⁸ Investment Agreement, Puerto Quetzal Power Corp. and International Finance Corporation (March 31, 1993) (EC2 000036651 - EC2 000036700) [hereinafter IFC Loan]; *See also* Form 10K, *supra* note 69.

“Incentive Compensation” was payable under the Plan and, once awarded, the form of payment could be either cash, shares of common stock or a combination thereof.¹³⁹ “Fixed Participation Interests” awards applied to each project arising during the period an Award Agreement was in effect.¹⁴⁰ Recipients received these awards based on their supervisory role over Enron/EDC projects.¹⁴¹ In contrast, “Specific Participation Interests” awards applied to one or more specific projects.¹⁴²

Enron was unable to locate documentation for compensation, bonuses, and stock option awards for the Guatemala Project. However, an example of awards at Plan Payment Dates for Enron power project successes in Italy and Puerto Rico are summarized in the following table.¹⁴³

Project Name	Project Value	Project Value	Pool	Comments
Sarlux (Italy)	\$105.7 million	\$246.8 million	\$20 mil. (10% of NPV capped at \$20 mil.)	<ul style="list-style-type: none"> Plan Payouts capped at \$20 million Payouts total \$14.5 million for developers; \$5.5 million paid at financial close to other staff
EcoElectrica (Puerto Rico)	\$231.7			<ul style="list-style-type: none"> First Milestone Financial Closure Jan. 1998 Developers with fixed interests paid \$5,116,387 (does not include developer awarded a 1.5% interest); developers with variable interests paid \$5,108,874
EcoElectrica (Puerto Rico)		\$268.3 million		<ul style="list-style-type: none"> Second milestone payment approved for Feb. 2001 Developers with fixed interests paid \$4,272,923; developers with variable interests paid \$7,661,160

Note: Participants can elect to (1) receive payment, in the form of cash and options, based on the current project net Project value, or (2) receive payments based on NPV at the time the project has been in operation for six months, or (3) upon a transfer date.

Enron’s compensation for specific projects focused on the attainment of financing rather than developing and completing a successful project. Thus, through cash and stock option bonuses, Enron executives received compensation at the beginning of a project, regardless of the success or failure of the project.

¹³⁹ Enron/EDC 1993 Participation Plan, *supra* note 135, at 10 and 13 (EC 001936356 and EC 001936359).

¹⁴⁰ Enron/EDC 1993 Participation Plan, *supra* note 135, at 8 (EC 001936354).

¹⁴¹ Interview of Rebecca P. Mark, in Houston, TX (Oct. 4, 2002).

¹⁴² Enron/EDC 1993 Participation Plan, *supra* note 135, at 8-9 (EC 001936354 - EC 001936355).

¹⁴³ Compensation and Management Development Committee Meeting, Enron Corp. (August 9, 1999) (EC000101088; EC000102380; EC000102381; EC2000032349, on file with Senate Finance Committee).