Congress of the United States
House of Representatives
Washington, D.C. 20515

February 14, 2002

The Honorable Billy Tauzin, Chairman
Energy and Commerce Committee
2125 Rayburn HOB
Washington, D.C. 20515

Dear Chairman Tauzin,

We write to urge you to hold a hearing on the business conduct and pricing practices of the Enron Corporation in California and the West during 2000 and 2001.

While the Committee's attention has focused on the financial and accounting practices of Enron and its auditor, Arthur Andersen L.L.P., there are many other troubling aspects regarding the case that we should examine. We're concerned that these important aspects are being overlooked.

As you know in November of 2000, the Federal Energy Regulatory Commission (FERC) declared that consumers in California had been and were paying "unjust and unreasonable" rates.

We must know if Enron influenced the exponential increase in wholesale electricity rates during 2000-2001. FERC has discovered instances of calculated withholding by marketers and generators operating in the West. There have been allegations of "megawatt laundering" and other activities designed to circumvent price mitigation rules and keep prices artificially high. In testimony before the Senate Energy and Natural Resources Committee in January, Mr. Robert McCullough, Managing Partner, McCullough Research of Portland, Oregon, stated:

> On December 3rd, Enron went into Chapter 11. At the same time, forward markets on the West Coast fell by 30%. No other changes in operations, hydroelectric supply, or fossil fuel prices took place at that time. The clear implication is that Enron may have been using its market dominance to "set" forward prices.

We must find out the degree to which Enron participated in these types of schemes.

We must also find out the extent to which Enron's lobbying influenced the Administration to permit price gouging in the West, and any influence that Enron and its executives could have had in the selection of the regulators who oversee the energy industry.

The *San-Diego Union-Tribune* (May 27, 2001 edition) detailed a meeting between former Enron CEO Kenneth Lay and Vice President Cheney that took place on April 17, 2001:

> As Cheney was crafting the administration's recently unveiled energy policy, Lay was one of the handful of people who got to meet with him. Lay presented a three-page, eight-point list of

priorities for open power markets, including an admonition that the administration 'should reject any attempt to re-regulate wholesale power markets' with price caps or other controls.

On April 18, 2001, one day after meeting with Mr. Lay, the Vice President telephoned the *Los Angeles Times* to declare the Administration's opposition to measures to curb price gouging.

This was not the limit of Enron's efforts to influence the Administration.

During interviews for the television program *Frontline* last year, Mr. Lay acknowledged that he and other Enron executives screened potential nominees to FERC. He also admitted that he presented a list of Enron-favored nominees to Clay Johnson, Director of the Office of Presidential Personnel (interview transcript at www.pbs.org/wgbh/pages/frontline/shows/blackout/interviews).

Other parts of these interviews indicate that Mr. Lay and Enron attempted to leverage this influence at the White House in order to convince the Commission to adopt their philosophy on open access.

In a separate interview for *Frontline* in 2001, then-FERC Chair Curtis Hébert was told, "Our sources tell us that he [Mr. Lay] offered to talk to the President on your behalf if you would go along with what he wanted [open access to wholesale and retail markets]." Mr. Hébert responded, "I don't think there's any doubt he would be a much stronger supporter of mine if I ... were willing to do what he wanted." Mr. Hébert was also asked, "Has any other CEO of any company ever called you privately to lobby their position?" Mr. Hébert said, "No."

Finally, Mr. Hébert was asked, "Because of the sensitivity of this, it is not incorrect to characterize these communications [between you and Mr. Lay] as ones that involve (1), policy, and (2), his [Mr. Lay's] ability to help you in some fashion?" Mr. Hébert answered, "There's no doubt Ken Lay and I have had communications as to policy and the direction he would like to see this Commission move in. There is also no doubt that he and I have had conversations as to whether or not he was supporting me for the [FERC] chairmanship."

It's clear that Enron took advantage of weaknesses in every regulatory structure. We believe that it's the duty of the Congress, particularly the Committee on Energy and Commerce, to examine Enron's business and pricing practices in California and the West during last year's energy crisis, and we therefore request that you schedule a hearing on these issues as soon as possible.

Sincerely,

Joe Baca

Barbara Lee

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Maxine Waters

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Mike Honda

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cc. The Honorable John D. Dingell, Ranking Member

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