

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ²³⁴ OF 2002

IN THE MATTER OF THE COMPANIES LAW (2001 SECOND REVISION)

AND IN THE MATTER OF ENRON INDIA HOLDINGS LTD.



PETITION



TO THE GRAND COURT OF THE CAYMAN ISLANDS

The Humble Petition of ENRON INDIA HOLDINGS LTD. of c/o Huntlaw Corporate Services Limited, PO Box 1350GT, Huntlaw Building, 75 Fort Street, George Town, Grand Cayman shows that:

1. ENRON INDIA HOLDINGS LTD. (hereinafter called "the Company") was incorporated on 12 October 1994 as an Exempted Company with limited liability under the Companies Law (as Revised) ("the Companies Law") of the Cayman Islands.
2. The registered office of the Company is situated at c/o Huntlaw Corporate Services Limited, PO Box 1350GT, Huntlaw Building, Fort Street, George Town, Grand Cayman.
3. The authorised share capital of the Company at the date of its incorporation was US\$50,000.00 divided into 50,000 ordinary shares of US\$1.00 each. 1,000 shares of US\$1.00 have been issued and are held by the sole shareholder and parent company, Offshore Power Production C.V., a Dutch limited partnership ("Offshore Power").
4. The company was formed as a special purpose holding company to hold shares in a Mauritius unlimited liability company known as Enron Mauritius Company, ("Enron Mauritius") which in turn is the 65.8% shareholder of an Indian unlimited company, Dabhol Power Company, ["DPC"] which owns and operates a power station and re-gasification facility in the Maharashtra State, Western India. The objects for which the company was established are not restricted in the

Company's Memorandum of Association and this permits the carrying on of unlimited general business.

5. The Company is part of a group of companies (the "Enron Group") whose ultimate parent company is Enron Corp., a multi-national corporation conducting business throughout the world, primarily in the field of oil and gas and energy. The Company's parent company, Offshore Power, is in turn a wholly owned subsidiary of 2 entities: Travamark Two BV, a Dutch limited liability company, and Atlantic India Holdings Ltd., a Cayman limited company, both of which are wholly owned subsidiaries of Atlantic Commercial Finance, Inc. which is 100% owned by Enron Corp. The Enron Group consists of approximately 3,500 companies registered in various jurisdictions, of which approximately 476 are Cayman entities.
6. Enron Corp., together with a number of its U.S. registered subsidiary companies, filed for protection under Chapter 11 of Title 11 of the U. S. Bankruptcy Code ("Chapter 11") on 2 December 2001. Such filing was made following a decision by the said company that it required the protection of a Chapter 11 proceeding to allow it to consider a refinancing or re-organisation in the interests of its creditors and shareholders which would result in the Enron Group being able to continue its core viable business.
7. The Company's main asset consists of its shareholding in Enron Mauritius having 1.10% of the issued shares in that company, which includes the entirety of the voting shares. These shares have a book value in the Company's accounts for 2001 of US\$7,357,086.00 and as at 31st December 2001 the recorded liabilities of the Company amounted to US\$12,144.00. However, the Company has a contingent liability in respect of its shareholding in Enron Mauritius and the shareholding of Enron Mauritius in DPC.
8. DPC has been placed into receivership following an application by certain of DPC's lenders to the India High Court in Bombay. It has liabilities to a number of banks (the "Secured Lenders") that have lent funds to DPC in connection with the construction of the power station and re-gasification facility and a number of unsecured creditors in the region of US\$2 billion. Since DPC is an unlimited company and its sole shareholder, Enron Mauritius, is also an unlimited liability company, the Company and Offshore Power, as the sole shareholders of Enron Mauritius, indirectly have liability in respect of the debts of DPC. The Company therefore has a contingent or prospective liability which thus renders it insolvent on a balance sheet basis.
9. The Company and Offshore Power have entered into an amended and restated Pledge Agreement dated 6 May 1999 (the "Pledge Agreement") by which Offshore Power and the Company pledged to U.S. Bank National Association, as

Offshore Collateral Agent for the Secured Lenders, their entire shareholding in Enron Mauritius and thus effectively, the 65.8% ownership of DPC.

10. The Company, like other members of the Enron Group, can no longer rely on Enron Corp. for financing. Since this ultimate parent company has filed for Chapter 11 protection, there is no assurance that further financing of any kind will be readily available until a group scheme of arrangement or other reorganization is achieved for the main holding company. In the event that the Company will not have access to financial support from its ultimate parent company, the Company is certainly not in a position to continue as a going concern.
11. The Company has sought and obtained advice that it would be in the best interests of the Company, its parent company Offshore Power and the Enron Group, to protect the Company's assets, namely its shares in Enron Mauritius, to file a petition for winding up in the Cayman Islands (the place of incorporation of the Company) and to seek appointment of provisional liquidators and an injunction restraining any and all proceedings against the Company pursuant to Section 99 of the Companies Law and the inherent jurisdiction of the Court together with parallel proceedings described below in the U.S. Bankruptcy Court.
12. The Company and Enron Mauritius filed voluntary petitions under Chapter 11 of the US Bankruptcy Code in the United States Bankruptcy Court, Southern District of New York under case numbers 02-11268 and 02-11267 respectively in the USA on Tuesday 19 March 2002. Offshore Power filed a voluntary petition under Chapter 11 in the same court under case number 02-11272 on Wednesday 20 March 2002. Upon a Chapter 11 filing, section 362 of the Bankruptcy Code imposes an automatic stay upon creditors with the result that no action can be commenced or continued against the Company.
13. DPC has been beset by discriminatory governmental attack from the various arms and agencies of the Indian government. Since early 2001, when the Maharashtra State Electricity Board ("MSEB"), a utility company owned by the State of Maharashtra with which DPC had entered into a long-term Power Purchase Agreement dated December 9, 1998 (the "PPA"), unjustifiably failed to pay for power in breach of the PPA. In May 2001, MSEB purported to rescind the PPA. MSEB then sought to by-pass the PPA provisions on enforcement and international arbitration proceedings and instead sought relief from the Maharashtra Electricity Regulatory Commission ("MERC"), a regulatory body controlled by the State of Maharashtra. Notwithstanding the international arbitration clause in the PPA, MERC asserted exclusive jurisdiction over disputes between DPC and MSEB under the PPA, a decision which was subsequently upheld by the High Court in Bombay. Furthermore, four Indian state-owned banks that had lent funds to DPC obtained an injunction from the High Court in

Bombay prohibiting DPC from terminating the PPA (thus preventing DPC from claiming termination compensation from MSEB) and MSEB obtained an injunction from the High Court in Bombay prohibiting DPC from drawing on letters of credit (which was a security mechanism in the PPA).

14. The Government of Maharashtra ("GOM") has guaranteed the obligations of MSEB under the PPA pursuant to a Guarantee dated 10th February 1994 (the "GOM Guarantee") and the Government of India ("GOI") has provided a limited guarantee of the obligations of GOM under the GOM Guarantee pursuant to a Guarantee dated 15th September 1994 (the "GOI Guarantee"). DPC has made claims under the GOM Guarantee and the GOI Guarantee. However, both GOM and GOI have defaulted on their obligations under the GOM Guarantee and the GOI Guarantee, respectively, and DPC has commenced arbitration proceedings against both GOM and GOI.
15. Because of the defaults by MSEB, GOM and GOI and the purported rescission of the PPA by MSEB, the Secured Lenders, a large portion of which are state-owned Indian financial institutions, stopped funding for the project in March 2001. This unavailability of funding for completion of the project has eventually resulted in the termination of various construction contracts, operation and maintenance contracts and LNG ship contracts to which DPC is a party and has thereby given rise to substantial damage claims by the contractual counter-parties.
16. Numerous government committees and probes have been instituted to investigate the project with the stated purpose of re-negotiating the terms of the PPA. There has also been concerted government harassment by various governmental authorities including customs, tax and environmental authorities. All of the above actions have continued for over a year.
17. In or about July 2001, the Government of Maharashtra informed the Company of its intention to restructure the project without the foreign equity holders, which apart from Enron Mauritius, included a 10% shareholding by Energy Enterprises, (a company owned by Bechtel) and a 10% shareholding by Capital India, a subsidiary of General Electric. The state-owned Indian financial institutions that had made loans to DPC, initiated an auction of the shares in the project owned by the foreign investors, notwithstanding that no agreement has been reached in regard to a replacement for the PPA. If such auction proceeds, the foreign investors are likely to receive little or no value from their investment in DPC. On March 19, 2002, four of state-owned Indian financial institutions (Industrial Development Bank of India, ICICI Ltd., IFCI Ltd., and State Bank of India) petitioned the High Court of Bombay for an order for, *inter alia*, the appointment of a receiver for all of the assets of DPC and an injunction against *inter alia* the Company, Enron Mauritius and Offshore Power to restrain them from submitting

to the jurisdiction of the US Bankruptcy Court. The High Court issued such order on March 21, 2002.

18. In light of the above, the Company does not expect to make any recovery from its shareholding in Enron Mauritius. The best hope is through its potential to recover under political risk insurance coverage with a total coverage of US\$342,860,000.00 on the grounds of expropriation by GOM and GOI and the failure by GOI to honour its guarantee by reason of the facts and matters set out above.
19. The first policy between Overseas Private Investment Corporation and Offshore Power, acting through one or more companies formed for the purpose of making and holding an investment or investments in the Dabhol power project ("the OPIC Policy"), provides cover against inconvertibility, expropriation and political violence risk. It is however a condition of this policy that Offshore Power remains at all times the beneficial owner of its investment in the Dabhol project.
20. The Enron Group, including the Company, also has commercial insurance and this provides for certain applicable coverages. The Company is unable to divulge the terms of this insurance without the consent of the insurers.
21. The Company thus has the benefit of commercial insurance along with other interested Enron entities. The named beneficiaries under the OPIC policy are Overseas Power, the direct parent of the Company. The maintenance of this insurance is of great value to the Enron Group as a whole and its creditors. This insurance cover could be at risk if any of the Secured Lenders, which include the Indian financial institutions, were to enforce their rights under the Pledge Agreement to secure a transfer of the ownership of the Company's shares in Enron Mauritius as well as the shares in Enron Mauritius held by Offshore Power. Offshore Power and the Enron entities would be unable to make any claim under the insurance.
22. The automatic stay provided through the US Chapter 11 proceedings provides a period during which the Company can make arrangements to pursue claims under the valuable insurance coverage. Tandem provisional liquidation proceedings are required in Cayman to further protect the Company from creditor winding up or other proceedings in Cayman, which could indirectly disrupt the Chapter 11 proceedings and stay, in turn jeopardizing the Company's continued ownership of the Enron Mauritius shares.
23. It is clearly in the best interest of the Company and its creditors, as well as the creditors of the entire Enron Group, that the Company preserves its shareholding in Enron Mauritius. In the event of the ownership of the shares being lost to the

Company, its potential recoveries under the insurance coverage worth \$342,860,000 will also be lost.

24. As the Company will be a "Debtor in Possession" in the US Chapter 11 Proceedings in which its directors retain their powers to act on its behalf, it is proposed that the directors' powers are preserved in the Cayman proceedings insofar as such powers are necessary to be exercised in the best interests of the Company in claiming under the insurance coverage. It is proposed that the provisional liquidators oversee the Company's efforts in this respect under the supervision of this Court in conjunction with the US Bankruptcy Court.


25. After the claims process under the insurance policies is complete, the Company will seek a winding up Order to conclude its affairs.

AND YOUR PETITIONER THEREFORE HUMBLY PRAYS as follows:

1. That at such time as the Petition is listed for hearing, if so moved by the Company, the Petition be adjourned or alternatively the Company be wound up by the Court under the provisions of Part V of the Companies Law.
2. That the costs of and occasioned by the Petition be taxed and paid out of the assets of the Company on an indemnity basis.
3. That such further and/or other relief be granted as this Honourable Court deems appropriate.

NOTE: This Petition is intended to be served on the Registrar of Companies.

DATED this 4th of April 2002



Hunter & Hunter
Attorneys for the Company

Notice of Hearing

This Petition having been presented to the Court on the 4th day of April 2002 will be heard at the Court House, George Town, Grand Cayman on the 9th day of April 2002 at 9 :30 o'clock in the forenoon or as soon thereafter as the Petition can be heard.

THIS PETITION is filed by Hunter & Hunter, Attorneys-at-Law for the Petitioner, whose address for service is that of its said Attorneys-at-Law, 75 Fort Street, P.O. Box 190GT Grand Cayman (Ref SD/04472.036