

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
ENRON CORP., et al.,	:	Case No. 01-16034 (AJG)
	:	
Debtors.	:	Jointly Administered
	:	
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**ORDER (i) DISMISSING THE REORGANIZED DEBTORS’
SUPPLEMENTAL OBJECTION, (ii) GRANTING THE
REORGANIZED DEBTORS’ SIXTY-SEVENTH OMNIBUS OBJECTION,
WITH RESPECT TO CLAIM NUMBER 15207 OF LODESTAR ENERGY, INC.,
AND (iii) ALLOWING CLAIM NUMBER 15207**

This matter having come before the Court on the Motion of LS Acquisition Co. LLC for Dismissal of Reorganized Debtors’ Sixty-Seventh Omnibus Objection to Claim Number 15207 and Determination That Further Objection Is Barred, dated October 21, 2005 (Docket No. 27860) (the “Motion to Dismiss”), and the Court having considered in connection therewith the Sixty-Seventh Omnibus Objection filed in Aid of Confirmation of Joint Plan to Reclassify Proofs of Claim filed as Administrative and Priority Claims, dated November 16, 2004 (Docket No. 21988) (the “Omnibus Objection”), and the Response of Enron North America Corp. to Motion of LS Acquisition Co. LLC for Dismissal of Debtors’ Sixty-Seventh Omnibus Objection and Supplemental Objection to Proof of Claim Number 15207 of Lodestar Energy, Inc. dated November 14, 2005 (Docket No. 28120) (the “Supplemental Objection”); and upon determining that the Court has jurisdiction to consider the Omnibus Objection, the Supplemental Objection, and the Motion to Dismiss and the relief requested therein; and due notice of the Omnibus Objection, the Supplemental Objection, and the Motion to Dismiss, and the hearings

held thereon having been served to all parties entitled thereto in accordance with the Bankruptcy Rules and this Court's Second Amended Case Management Order; and for the reasons stated in the Court's March 16, 2006, decision, a copy of which is attached hereto and which was announced on the record during a properly noticed and convened hearing; it is hereby

ORDERED that the Supplemental Objection shall be, and hereby is, dismissed with prejudice; and it is further

ORDERED that the Omnibus Objection as to proof of claim number 15207 of Lodestar Energy, Inc. shall be and hereby is Granted to the extent it seeks the reclassification to a general, unsecured, non-priority claim of that portion of proof of claim number 15207 in the amount of \$1,220,421.62 classified therein as an administrative, priority claim; and it is further

ORDERED that any further objection to proof of claim number 15207 of Lodestar Energy, Inc. is barred by the expiration of the March 14, 2005 deadline set forth in Section 21.1 of the Fifth Amended Joint Plan of the Affiliated Debtors; and it is further

ORDERED that proof of claim number 15207 of Lodestar Energy, Inc. shall be and hereby is allowed as a general unsecured, non-priority, claim in the Enron North America Corp. chapter 11 case in the amount of \$6,115,275.15.

Dated: New York, New York
March _____, 2006

HONORABLE ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE

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AS REVIEWED AND MODIFIED BY THE
COURT ON 3/16/2006

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

Case No.
01-16034
ENRON CORP., et al, *SEE BELOW

Debtors.

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March 16, 2006
12:00 p.m.

United States Custom House
One Bowling Green
New York, New York 10004

DIGITALLY RECORDED PROCEEDINGS
E X C E R P T
(DECISION RE LS ACQUISITION CO. LLC)

12:00 01-16034 ENRON CORP., ET AL
DECISION TO BE RENDERED

Motion by LS Acquisition for Dismissal of
Debtors' Sixty-Seventh Omnibus Objection to
Claim No. 152077 and Determination that
Further Objection is Barred.

B E F O R E:

THE HONORABLE ARTHUR J. GONZALEZ
United States Bankruptcy Judge

DEBORAH HUNTSMAN, Court Reporter
198 Broadway, Suite 903
New York, New York 10038
(212) 608-9053 (917) 723-9898

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A P P E A R A N C E S:

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(via telephone)

1 Proceedings

2 (Whereupon, the following is an
3 excerpt from 03/16/2006 in In re Enron Corp.,
4 et al, Case No. 01-16034.)

5 JUDGE GONZALEZ: This is Judge
6 Gonzalez. I will be reading a decision into
7 the record regarding the issue as to the
8 supplemental objection.

9 * * * *

10 Pursuant to Section 21.1 of the
11 Fifth Amended Joint Plan of the Affiliated
12 Debtors, the deadline for the Reorganized
13 Debtors to file objections to Claims expired
14 on March 14, 2005. On October 15, 2002,
15 Lodestar Energy, Inc. ("Lodestar") timely
16 filed Proof of Claim (Claim Number 15207) in
17 the Enron North America Corp. ("ENA") Chapter
18 11 proceeding in the amount of \$6,115,275.15.
19 This proof of claim sought

20 1. \$1,601,744.46 as unpaid
21 invoices, of which \$1,220,421.62 was filed as
22 an administrative priority claim pursuant to
23 11 U.S.C. sections 546(c)(2), 503, and 105,
24 on the grounds that the claim was a valid
25 Reclamation claim.

1 Proceedings

2 2. \$197,852.00 based on coal
3 committed to ENA but sold to others when ENA
4 repudiated the coal supply contracts existing
5 between Lodestar and ENA.

6 3. \$4,315,648.69 in damages and/or
7 lost revenue incurred as a result of ENA's
8 repudiation of the Pre-Petition Coal Purchase
9 Agreements.

10 On September 30, 2004, LS
11 Acquisition Co., LLC ("LS"), the transferee
12 of Lodestar's claim, filed an "Application
13 for Allowance of Administrative Claim and for
14 Order Authorizing and Directing Payment of
15 Claim Pursuant to 11 U.S.C. sections 546(c)2,
16 503, and 105" ("LS Application"). In the
17 application, LS sought allowance and payment
18 of the \$1,220,421.62 Reclamation claim as an
19 administrative claim.

20 On November 15, 2004 ENA filed its
21 "Response to LS Acquisition Co. LLC's
22 Application for Allowance of Administrative
23 Expense Claim," contesting LS' Reclamation
24 claim as invalid and not classifiable as an
25 administrative claim.

1 Proceedings

2 On November 16, 2004 Enron filed
3 their "Sixty-Seventh Omnibus Objection Filed
4 in Aid of Confirmation of Joint Plan to
5 Reclassify Proofs of Claim Filed as
6 Administrative and Priority Claims."
7 ("Omnibus Objection"). On page 13 of Exhibit
8 B of the Omnibus Objection, the Debtors
9 objected to the classification of the
10 \$1,220,421.62 claim as one of administrative
11 priority and wanted it reclassified as a
12 general unsecured claim. No objections were
13 made to the remaining portion of LS's proof
14 of claim.

15 The parties engaged in discovery
16 pursuant to a Scheduling Order and LS
17 determined that it would not be able to
18 establish that Lodestar has a valid
19 Reclamation claim. On September 9, 2005, LS
20 filed a "Supplement of LS Acquisition Co. LLC
21 to the Consolidated (1) Response and
22 Objection of LS to Debtors' Sixty-Seventh
23 Omnibus Objection Filed in Aid of
24 Confirmation of Joint Plan to Reclassify
25 Proofs of Claim Filed as Administration and

1 Proceedings
2 Priority Claim, and (2) Application of LS
3 Acquisition Co. LLC for Allowance of
4 Administrative Claim and for Order
5 Authorizing and Directing Payment of Claim
6 Pursuant to 11 U.S.C. sections 546(c)(2),
7 503, and 105." ("LS Supplement"). In the LS
8 Supplement, LS conceded that they could not
9 demonstrate that it had a valid Reclamation
10 claim and withdrew the original September 30,
11 2004 Application.

12 Regarding the Extension Order at
13 issue, on February 25, 2005, this Court, upon
14 motion of the Reorganized Debtors, entered an
15 "Order Extending Period to File Objections to
16 Certain Claims." The order stated that
17 "[W]ith respect to Claims that are subject to
18 a pending Omnibus Objection, an adjourned
19 individual claim, or a matter currently under
20 advisement with the court by March 14, 2005,
21 wherein the Reorganized Debtors' objection to
22 such claim is initially or subsequently
23 denied, the objection deadline is hereby
24 extended to the latter of (i) sixty (60) days
25 from the date on which this Court enters an

1 Proceedings

2 order denying such Initial objection"

3 The Order also stated "[W]ith
4 respect to Claims that are subject to a
5 signed settlement agreement between the
6 Reorganized Debtors and a claimant entered
7 into on or before March 14, 2005, that the
8 Court does not approve, the objection
9 deadline is hereby extended to the latter of
10 (i) sixty (60) days from the date on which
11 this Court enters a final order approving a
12 Rule 9019 motion seeking approval of the
13 Settlement Agreement, (ii) sixty (60) days
14 from the date that the Reorganized Debtors
15 determine that the Settlement Agreement
16 cannot close and (iii) sixty (60) days from
17 the date on which any appellate court enters
18 a final order from an appeal of the final
19 order of this Court resolving such Rule 9019
20 Motion"

21 As indicated above, the time to
22 object to claims, unless extended by the
23 Extension Order, expired on March 14, 2005.
24 On November 14, 2005, Enron filed a
25 "Supplemental Objection to Proof of Claim

1 Proceedings
2 Number 15207 of Lodestar Energy Inc."
3 ("Supplemental Objection"). The Debtors
4 claim the Settlement Objection is not
5 time-barred because, pursuant to the
6 Extension Order, the deadline to object to
7 the Lodestar Claim is 60 days from which
8 there is a final-nonappealable order. Enron
9 claims that since no such order has been
10 entered regarding the Sixty-Seventh Omnibus
11 Objection, the deadline to object to
12 Lodestar's Claim has not passed.

13 Debtors' interpretation is
14 incorrect. The Extension Order must be
15 examined in context. By the motion for the
16 Extension Order, the Debtors were seeking to
17 protect themselves from in fact not raising
18 every conceivable basis for a claim to be
19 disallowed in its objection, since often
20 there may be a basis to disallow a claim
21 without the need to expend resources to
22 review each aspect of a particular claim. In
23 the Extension Order there is a reference to
24 an "Initial" objection. This supports the
25 conclusion that a broader type of objection

1 Proceedings
2 would likely be filed first, and then if
3 overruled a more particularized objection
4 would likely follow if appropriate.
5 Therefore, the Extension Order, among other
6 things, provides an opportunity for the
7 Debtors to raise any additional objection for
8 disallowance if the Initial objection were
9 overruled. It does not provide for an
10 extension under that provision of the order
11 unless the Initial objection is overruled.
12 The denial of the Initial objection is a
13 condition precedent to the triggering of the
14 extension under that provision of the order.
15 In its Omnibus Objection, Enron
16 only objected to the Reclamation portion of
17 the claim of Lodestar. There will never be a
18 final-nonappealable order overruling the
19 Reclamation claim since LS has conceded that
20 they could not demonstrate that they have a
21 valid Reclamation claim and withdrew the
22 original September 30, 2004 Application on
23 September 9, 2005. The Court will never rule
24 on the objection to the Reclamation portion
25 of Lodestar's claim because that claim is no

1 Proceedings

2 longer before the Court. Enron's objection
3 to the claim can never be "initially or
4 subsequently denied." As stated above, the
5 denial of the "Initial" objection is a
6 condition precedent to the sixty-day
7 extension period. Therefore, that provision
8 of the Extension Order is not implicated.
9 Enron was aware of the non-Reclamation
10 portions of the claim in their initial
11 Sixty-Seventh Omnibus Objection, but only
12 raised an objection to the Reclamation
13 portion of the claim.

14 Further, Enron's Supplemental
15 Objection is also time-barred in that it does
16 not fit within the provision regarding claims
17 subject to a signed settlement agreement
18 between the parties that was entered into
19 before May 14, 2005 and which was not
20 approved by the Court. There was no signed
21 settlement agreement between Enron and LS
22 entered into before March 14, 2005. The fact
23 the parties were engaged in settlement
24 discussions does not extend the time to
25 object to claims, without more. Further, it

1 Proceedings

2 appears from the record that any settlement
3 discussions regarding the issues raised in
4 the Supplemental Objection did not occur
5 until after the March 14, 2005 deadline.
6 Therefore, there is no basis to argue that
7 the failure to file a timely objection was
8 that the parties were engaged in discussions
9 and there was any understanding that the
10 deadline would be extended. At the time the
11 deadline expired the only issue that the
12 Debtors were disputing was the Reclamation
13 portion of the claim.

14 Enron argues that the September 9,
15 2005 withdrawal of the Reclamation claim is
16 the first time that there was a written
17 filing in the Court's records indicating a
18 capitulation on that claim and seems to
19 equate that with an order overruling the
20 Debtors' objection. This ignores the fact
21 that the withdrawal of the Claim removes the
22 sole objection to the Claim that was before
23 the Court. Again, as stated before, the
24 Extension Order can never become operative
25 because there is no objection for the Court

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2 to deny. The Debtors were aware of all of
3 Lodestar's claim and should have objected to
4 the non-Reclamation portions before the
5 original deadline, if they deemed it
6 appropriate.

7 Regarding Debtors' argument that it
8 is the position of the Court that there is
9 strong preference to resolve disputes on the
10 merits, that is true. However, that strong
11 preference is a factor when weighing the
12 equities of a particular situation. It
13 cannot create an exception where one is not
14 warranted under the plain language of the
15 relevant order and where there are no other
16 circumstances that would warrant such relief.

17 Therefore, based upon all of the
18 foregoing, the Debtors' Supplemental
19 Objection is overruled as untimely. Counsel
20 for LS is to settle an order consistent with
21 this Court's opinion.

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(Whereupon, a recess was taken.)

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS:
COUNTY OF NEW YORK)

I, DEBORAH HUNTSMAN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That the within is a true and accurate transcript of the Digitally Recorded Proceedings recorded on the 16th day of March, 2006.

I further certify that I am not related by blood or marriage to any of the parties and that I am not interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of March, 2006.

DEBORAH HUNTSMAN

AS REVIEWED AND MODIFIED BY THE COURT ON 3/16/2006
PROOFREAD BY HALLIE CANTOR AND YA'AKOVAH WEBER