UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA	§ § §	CRIMINAL NO. **H-04-514-SS**
v.	§ §	**Conspiracy; 18 U.S.C. § 371** **False Reporting; 7 U.S.C. § 13(a)(2)**
GREG SINGLETON,	§ §	**Wire Fraud; 18 U.S.C. § 1343** **Obstruction; 18 U.S.C. § 1512(c)(2)**
Defendant.	§	

SECOND SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

At all times material to this Superseding Indictment:

Natural Gas

1. Natural gas, a combustible mixture of methane and other hydrocarbon gases, was one of the most widely used sources of energy in the United States. It was used to heat and cool homes and buildings, cook food and generate electricity.

2. Natural gas was extracted from underground, processed and then transported to consumers through a vast interconnected network of pipelines that spanned North America. Natural gas produced in one region was interchangeable with natural gas produced in all other regions, and was quickly and efficiently

transported along the pipeline network to areas of high natural gas demand. The only significant distinction between natural gas produced in different regions of the United States was the cost of transporting it from one location to another.

3. Contracts for future delivery of natural gas were traded on the New York Mercantile Exchange ("NYMEX"), a physical commodity futures exchange. Natural gas was therefore a commodity as defined in Title 7, United States Code, Section 1a(4).

Physical trades

4. The most basic type of natural gas trade was a "physical" trade. A physical trade called for the actual delivery of gas to the buyer. When traders entered into a physical trade, they agreed upon the price, the volume of gas, the period it was to be delivered and the delivery location.

5. A "baseload" trade was a common type of physical trade. A typical baseload trade called for the delivery of natural gas each day for an entire month. Most baseload trades were negotiated during a period at the end of the preceding month called "bidweek".

Fixed price

6. There were several ways to set the price of a physical trade. One way was for traders to agree upon a specific dollar amount at the time of the trade. Such a price was called a "fixed" price. Fixed price baseload trades were common for

natural gas delivered in some areas of the country, including Southern California.

Index price

7. Traders could also agree to buy and sell natural gas at a price that was unknown at the time of the trade but would be determined later. For example, traders commonly agreed to buy or sell natural gas at a price to be published some date in the future by a privately-owned newsletter. Such a price was called an "index price". Some index prices were published the first day of every month, while others were published every day.

8. Index prices also affected many other types of natural gas transactions in addition to physical trades, including the following:

- "Swaps", that is, financial transactions in which two natural gas traders agreed to buy the exact same amount of gas from each other at the same time but at different prices. In a typical natural gas swap, one trader agreed to pay an index price, and the other trader agreed to pay a fixed price, the price of a NYMEX futures contract, or some other index price.

- Long-term supply contracts through which electric utilities, natural gas utilities and industrial companies bought natural gas at prices tied to index prices.

- "Option" contracts that gave traders the right to buy natural gas at index prices.

- Royalty payments received by owners of natural gas mineral rights, including the United States government and the states of Texas and New Mexico.

- "Tariffs" charged by natural gas pipelines.

- Natural gas futures contracts

9. Index prices also were used as an indication of the market price of natural gas. For example, producers of natural gas were often willing to sell it at index prices. More generally, index prices affected the allocation of resources in the national economy by helping consumers estimate the cost of their future use of natural gas and by helping companies that invested in exploration and production, transportation and storage of natural gas estimate the value of their assets.

Inside FERC and _NGI_

10. *Inside FERC Gas Market Report* (*"Inside FERC"*) and *Natural Gas Intelligence* (*"NGI"*) were two newsletters that published natural gas index prices. *Inside FERC* was published by Platts, a division of The McGraw-Hill Companies, Inc., which was a large media conglomerate. *NGI* was published by a small company called Intelligence Press, Inc.

11. *Inside FERC* and *NGI* determined and published index prices at the beginning of every month for natural gas delivered at dozens of different "hubs" throughout the United States. These hubs were locations on major interstate natural gas pipelines. *Inside FERC's* and *NGI's* monthly index prices were supposed to be representative of the fixed prices at which companies had bought and sold natural gas for delivery at these locations.

How Index prices were Determined

12. *Inside FERC* and *NGI* determined their monthly index prices through surveys of natural gas traders. *Inside FERC* gave written instructions to traders who participated in the surveys. The instructions, sent by email at the end of each month, directed traders to report a specific type of natural gas trade to *Inside FERC*: "Only report FIXED-PRICED, BASELOAD DEALS negotiated during bidweek". These exact words were part of *Inside FERC's* written instructions to traders from at least November 1999 through August 2002, covering the entire period of this Second Superseding Indictment. The instructions directed traders to report the delivery points, prices, volumes and dates of each such trade. *Inside FERC* supplied traders with an Excel form on which to make the reports. In addition, *Inside FERC* invited traders to call the publication's chief editor, Kelley Doolan, with any questions, and many traders did call.

13. Traders participated in the surveys by e-mailing lists of trades to the publications, often on the form provided by *Inside FERC*. When *Inside FERC* and *NGI* received reports from traders, editors transferred the reported data into master Excel work sheets that listed trades reported by all sources. On occasion editors excluded some reported trades from the master Excel work sheets, or reduced the volumes. The work sheets contained formulas that automatically performed various statistical calculations on the trades listed for a given location, including the volume-

weighted average price.

14. *Inside FERC* editors used the volume-weighted average prices appearing on its master Excel work sheets as the starting point for an editorial process that determined index prices. Approximately three-fourths of the time, that editorial judgment led *Inside FERC* to select an index price that was exactly the same as the volume-weighted average price shown on *Inside FERC's* work sheets rounded to the nearest penny.

15. *NGI's* usual practice was to publish the weighted average price of reported trades as the index price.

El Paso

16. El Paso Corporation ("El Paso") was a publicly traded Delaware corporation with its headquarters in Houston, Texas. El Paso described itself as North America's leading provider of natural gas services. El Paso was organized along four separate business segments, one of which, Merchant Energy, traded natural gas.

The Defendant

17. Defendant GREG SINGLETON was employed by El Paso's Merchant Energy segment in Houston, Texas, as a natural gas trader on El Paso's "West Desk". Defendant SINGLETON was hired by El Paso in October, 1999, and was promoted to the position of Vice President in March, 2001. Defendant SINGLETON's job at

El Paso was to earn profits by buying and selling natural gas and by entering into "swaps".

18. Index prices published by *Inside FERC* and *NGI* affected the amount of profit defendant SINGLETON earned on his trades at El Paso. When defendant SINGLETON reported false information to *Inside FERC* and *NGI* he affected and tended to affect index prices and, thereby, the price of natural gas.

COUNT ONE
(Conspiracy -- 18 U.S.C. § 371)

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. THE CONSPIRACY AND ITS OBJECTS

2. From in or about July, 2000, through on or about September 30, 2000, in the Houston Division of the Southern District of Texas, and elsewhere, the defendant,

GREG SINGLETON,

did knowingly combine, conspire, confederate and agree with Michelle M. Valencia, not a defendant herein, and others known and unknown to the grand jury to commit the following offense against the United States:

To knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, in violation of Title 7, United States Code, Section 13(a)(2).

C. THE MANNER AND MEANS OF THE CONSPIRACY

3. It was a part of the conspiracy that defendant GREG SINGLETON would and did discuss with Michelle M. Valencia natural gas trades they intended to report and not to report to index publications.

4. It was a further part of the conspiracy that defendant GREG SINGLETON and Michelle M. Valencia would and did agree to report a natural gas trade between El Paso and Dynegy that was not real.

5. It was a further part of the conspiracy that defendant GREG SINGLETON and Michelle M. Valencia would and did agree not to report a natural gas trade between El Paso and Dynegy that was real.

6. It was a further part of the conspiracy that defendant GREG SINGLETON and Michelle M. Valencia would and did cause employees of El Paso and Dynegy to report fictitious natural gas trades to *NGI* and *Inside FERC*.

7. It was a further part of the conspiracy that defendant GREG SINGLETON and Michelle M. Valencia would and did lower and cause to be lowered the volume weighted average price of Southern California baseload natural gas trades listed on *Inside FERC's* and *NGI's* August 2000 and September 2000 work

sheets.

D. OVERT ACTS

8. In furtherance of the conspiracy, and to effect the objects thereof, the defendants performed and caused to be performed, among others, the following overt acts:

(1) On or about July 28, 2000, defendant GREG SINGLETON and Michelle M. Valencia agreed in a telephone conversation with each other not to report a natural gas trade between El Paso and Dynegy that was real.

(2) On or about July 31, 2000, defendant GREG SINGLETON sent a report to *NGI* listing trades by El Paso that were not real.

(3) On or about July 31, 2000, Michelle M. Valencia sent a report to *Inside FERC* listing trades by West Coast LLC that were not real.

(4) On or about July 31, 2000, Michelle M. Valencia caused a Dynegy employee to send a report to *Inside FERC* listing trades by Dynegy that were not real.

(5) On or about August 30, 2000, defendant GREG SINGLETON and Michelle M. Valencia agreed in a telephone conversation with each other to report a trade of natural gas between El Paso and Dynegy that was not real.

(6) On or about August 31, 2000, defendant GREG SINGLETON caused an El Paso employee to include a fictitious trade on a report sent to *Inside FERC*.

(7) On or about August 31, 2000, defendant GREG SINGLETON caused an

El Paso employee to include a fictitious trade on a report sent to *NGI*.

(8) On or about August 31, 2000, Michelle M. Valencia caused a Dynegy employee to send a report to *NGI* and *Inside FERC* listing trades by West Coast LLC that were not real.

(9) On or about August 31, 2000, Michelle M. Valencia caused a Dynegy employee to send a report to *Inside FERC* listing trades by Dynegy that were not real.

In violation of Title 18, United States Code, Section 371.

<u>COUNT TWO</u>

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. <u>INTRODUCTION</u>

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. <u>FALSE REPORTING</u>

2. On or about July 31, 2000, in the Houston Division of the Southern District of Texas, the defendant,

GREG SINGLETON,

aided and abetted by Michelle M. Valencia, not a defendant herein, and by others known and unknown to the grand jury, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, an email sent from El Paso in Houston, Texas, to *NGI*, in Oregon, that did not accurately describe El Paso's real trades of natural gas.

In violation of Title 7, United States Code, Section 13(a)(2), and Title 18, United States Code Section 2.

COUNT THREE

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. FALSE REPORTING

2. On or about July 31, 2000, in the Houston Division of the Southern District of Texas, the defendant,

GREG SINGLETON,

aided and abetted by Michelle M. Valencia, and by others known and unknown to the grand jury, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, an email sent from Dynegy in Houston, Texas, to *Inside FERC*, in Washington, D.C., that did not accurately describe Dynegy's real trades of natural gas.

In violation of Title 7, United States Code, Section 13(a)(2), and Title 18, United States Code Section 2.

COUNT FOUR
(False Reporting -- 7 U.S.C. § 13(a)(2))

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. FALSE REPORTING

2. On or about August 31, 2000, in the Houston Division of the Southern District of Texas, the defendant,

GREG SINGLETON,

aided and abetted by Michelle M. Valencia, and by others unknown to the grand jury, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, an email sent from El Paso in Houston, Texas, to *NGI*, in Oregon, that did not accurately describe El Paso's real trades of natural gas.

In violation of Title 7, United States Code, Section 13(a)(2), and Title 18, United States Code Section 2.

COUNT FIVE
(False Reporting -- 7 U.S.C. § 13(a)(2))

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. FALSE REPORTING

2. On or about August 31, 2000, in the Houston Division of the Southern District of Texas, the defendant,

GREG SINGLETON,

aided and abetted by Michelle M. Valencia, and by others unknown to the grand jury, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, an email sent from El Paso in Houston, Texas, to *Inside FERC*, in Washington, D.C., that did not accurately describe El Paso's real trades of natural gas.

In violation of Title 7, United States Code, Section 13(a)(2), and Title 18, United States Code Section 2.

COUNT SIX

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. FALSE REPORTING

2. On or about August 31, 2000, in the Houston Division of the Southern District of Texas, the defendant,

MICHELLE M. VALENCIA,

aided and abetted by Greg Singleton and by others unknown to the grand jury, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication material false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, an email sent from Dynegy in Houston, Texas, to *Inside FERC*, in Washington, D.C., that did not accurately describe Dynegy's real trades of natural gas.

In violation of Title 7, United States Code, Section 13(a)(2), and Title 18, United States Code Section 2.

COUNT SEVEN - NINE
(Wire Fraud -- 18 U.S.C. § 1343)

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

B. THE SCHEME TO DEFRAUD

2. From in or about July, 2000, through on or about September 30, 2000, in the Houston Division of the Southern District of Texas, and elsewhere, the defendant,

GREG SINGLETON,

aided and abetted by others known and unknown, did knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations and promises.

C. THE MANNER AND MEANS OF THE SCHEME

3. It was a part of the scheme that the head of all natural gas trading at El Paso would and did direct employees to report trades inaccurately to industry newsletters in order to benefit El Paso's trading positions.

4. It was a further part of the scheme that defendant GREG SINGLETON would and did report trades inaccurately to industry newsletters for use in calculating natural gas index prices.

D. THE EXECUTION OF THE SCHEME

5. On or about the dates set forth below, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant did transmit and cause to be transmitted in interstate and foreign commerce writings, signals and sounds, that is, the defendant sent and caused an El Paso employee to send the following emails from Houston, Texas, that listed fictitious natural gas trades and did not accurately describe real natural gas trades:

COUNT	DATE	WRITING	FROM	TO
7	July 31, 2000	Email	El Paso Houston, Texas	*NGI* Oregon
8	August 31, 2000	Email	El Paso Houston, Texas	*Inside FERC* Washington D.C.
9	August 31, 2000	Email	El Paso Houston, Texas	*NGI* Oregon

In violation of Title 18, United States Code, Section 1343 and Title 18, United States Code Section 2.

COUNT TEN
(Obstruction of Justice -- 18 U.S.C. § 1512(c)(2))

A. INTRODUCTION

1. The allegations in paragraphs 1 - 18 of the Introduction of this Second Superseding Indictment are adopted, realleged and incorporated as if set out fully herein.

2. The Commodities Futures Trading Commission ("CFTC") and the Federal Energy Regulatory Commission ("FERC") are federal government agencies that conduct proceedings authorized by law.

3. In or about July, 2002, the United States Attorney's Office for the Southern District of Texas ("USAO") began investigating El Paso's natural gas trading practices. On or about July 12, 2002, El Paso announced in a press release that the company had received a grand jury subpoena from the USAO for production of documents regarding "round trip" or "wash trades" of natural gas. El Paso promised to "cooperate fully with the request".

4. On or about August 13, 2002, El Paso's legal department sent an email to defendant GREG SINGLETON and others asking for assistance in gathering documents responsive to the grand jury subpoena. The email asked if trades on the attached list (wash trades) had been reported to any industry publication.

5. In or about October, 2002, El Paso received a subpoena from the CFTC regarding the company's reporting of natural gas trades to industry publications. On or about October 17, 2002, El Paso's legal department sent an email with the subject line "CFTC Subpoena--Jim Brooks" notifying various individuals at El Paso of a meeting to discuss "price reporting matters." The email also stated that outside counsel retained by El Paso would be attending the meeting. This email was forwarded to defendant GREG SINGLETON on October 21, 2002 with the statement

"Must attend."

6. On or about October 21, 2002, El Paso's legal department sent a questionnaire to defendant GREG SINGLETON. The questionnaire stated: "As you know, El Paso has received a subpoena from the Commodity Futures Trading Commission ("CFTC") with regard to price reporting to energy industry trade publications. In preparation for responding to this subpoena, we need the following information from anyone who preformed any trading function for any commodity or have had any communications with any energy industry trade publications since January 1, 2000."

7. On or about October 22, 2002, defendant GREG SINGLETON provided a brief written response to the questionnaire.

8. On or about October 22, 2002, the FERC issued a data request to El Paso for information about price reporting to trade publications.

9. On or about November 8, 2002 El Paso filed its initial response to the FERC data request ("Response"). The Response stated that "Since receiving the data request, EPME has begun interviewing its current employees who are responsible for trading natural gas to determine whether they communicated with the Trade Press, and, if so, the nature of those communications." The Response also identified defendant GREG SINGLETON as someone who "may have provided, either directly or indirectly, market information to the Trade Press during the period of time

specified in the Data Request."

10. On or about November 13, 2002, El Paso filed a supplemental response to the FERC data request ("Supplemental Response"). The Supplemental Response noted that "The information submitted by EPME is part of the Commission's ongoing investigation into potential manipulations of electric and natural gas prices..." The Supplemental Response identified an email and telephone recordings El Paso had discovered in which an editor at *Inside FERC* questioned the accuracy of information submitted by an El Paso employee. The Supplemental Response also noted that the employee had refused to be interviewed by El Paso lawyers without first consulting his own a lawyer, and had resigned on November 12, 2002.

11. On or about November 13, 2002, El Paso issued a public press release ("Press Release") announcing that in response to the October 22, 2002, FERC data request, it had retained an outside law firm ("Outside Lawyers") "to analyze the accuracy of the information that El Paso Merchant Energy reported to trade publications." The press release stated that El Paso had "identified at least one incident in which it appears that inaccurate pricing information may have been provided to a trade publication".

12. On or about November 14, 2002, the Outside Lawyers attempted to interview defendant GREG SINGLETON as part of their investigation into the accuracy of information El Paso reported to trade publications. The Outside Lawyers

told defendant GREG SINGLETON that El Paso may choose to disclose any information he gave them to "other third parties, including government agencies." Defendant GREG SINGLETON informed the Outside Lawyers that he had retained an attorney and wanted to reschedule the interview for a time when his attorney could be present. Defendant GREG SINGLETON gave the Outside Lawyers the name and phone number of the attorney. The attorney was a criminal defense lawyer.

13. On or about November 19, 2002, El Paso lawyers alerted the USAO that El Paso had uncovered an incident in which an El Paso natural gas trader had reported inaccurate information to a trade publication. El Paso gave the USAO copies of El Paso's Response and Supplemental Response to the FERC data request. The USAO immediately began a criminal investigation of the matter.

14. On or about November 22, 2002, El Paso's Outside Lawyers met with defendant GREG SINGLETON at his criminal defense attorney's office to interview him regarding the practices that were the subject of the CFTC and FERC investigations. During the interview, defendant GREG SINGLETON did not disclose, falsely denied, and otherwise concealed that he had provided false information to trade publications. Defendant GREG SINGLETON believed that El Paso's Outside Lawyers would inform government agencies of his statements during the interview. In fact, El Paso provided a memorandum of defendant GREG SINGLETON's interview to the CFTC, the FERC, and the USAO.

B. OBSTRUCTION

15. On or about November 22, 2002, in the Houston Division of the Southern District of Texas, the defendant,

GREG SINGLETON,

did knowingly, intentionally and corruptly obstruct, influence and impede official proceedings, to wit, the government investigations of El Paso's natural gas price reporting to trade publications.

In violation of Title 18, United States Code, Section 1512(c)(2).

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

CHUCK ROSENBERG
UNITED STATES ATTORNEY

By: ________________________
John R. Lewis
Assistant United States Attorney

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Belinda Beek
Assistant United States Attorney