

**The Insolvency Act 1986****Administrative Receiver's Report**

Pursuant to Section 48(1) of the  
Insolvency Act 1986 and Rule 3.8(3) of  
the Insolvency Rules 1986

To the Registrar of Companies

**S.48(1)****For Official Use**

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**Company Number****3647087**

Insert full name of  
Company

**Name of Company****Enron Teesside Operations Limited**

Insert full name and  
Address

I/We Ian Brown  
1 City Square  
Leeds  
West Yorkshire

Nicholas James Dargan

Delete as appropriate

Administrative Receiver(s) of the company attach a copy of my (our) report to creditors and a copy of the statement of affairs of the company.

Signed



Date

11-7-2003

Presenter's name,  
address and reference  
(if any)

ENRO00D  
Enron Teesside Operations Limited

Ian Brown  
Deloitte & Touche  
1 City Square  
Leeds  
West Yorkshire  
LS1 2AL

**For Official Use**  
Insolvency Section Post Room



482  
COMPANIES HOUSE

0209  
22/07/03

COMPANIES HOUSE

12/07/03

**ENRON TEESSIDE OPERATIONS LIMITED**

**JOINT ADMINISTRATIVE RECEIVERS' REPORT  
PURSUANT TO SECTION 48 OF THE  
INSOLVENCY ACT 1986**

**To be held at:** **Cellnet Riverside Stadium  
Middlesbrough**

**Date:** **11 July 2003**

**Time:** **2.30 pm**

**Joint Administrative Receivers:** **I Brown & N J Dargan  
Deloitte & Touche  
1 City Square  
Leeds  
LS1 2AL**

## 1. Introduction

In accordance with Section 48 of the Insolvency Act 1986, I set out below a report on the conduct of the receivership since the appointment of Nicholas James Dargan and myself as Joint Administrative Receivers on 15 April 2003.

## 2. Statutory Information

Company number	3647087
Date of incorporation	09/10/1998
Registered office	C/o Deloitte & Touche 1 City Square Leeds LS1 2AL England
Principal Trading Address	ETOL Headquarters PO Box 54 Middlesbrough Cleveland TS90 8JA
Nature of Business	Utilities & Services Provider
Directors	T Davidson P Gavens D Guy A Lewis A McLeod K Readshaw G Ritchie
Company Secretary	S Hands

### **3. Events leading up to the appointment of Joint Administrative Receivers**

The Company is a member of the Enron Group of Companies and operated under the Sub-European Group. The problems arising in the operations of Enron in the United States in the Autumn of 2001 have been well publicised. These problems resulted in the appointment of Administrators to the United Kingdom Companies in the Group, including the parent Company of ETOL, Enron Europe Limited.

Following the collapse of the Enron Group the Directors were vitally concerned as to the affect on the business and future of ETOL and took legal advice as ton the position of the Company and their positions as Directors. The removal of support from the Enron Group had a number of impacts on the Company. These were particularly in respect of a number of loss making contracts and the ability of the Company to service the considerable levels of debt in the Company which had been supported by contracts within the Enron Group.

Despite breaches of lending covenants and the invalidation of guarantees provided by the Enron Group, the Syndicate of Senior Lenders waived the covenant breaches which allowed the Company to continue trading and meet trading liabilities as and when they fell due. Under the terms of the waiver the Company was unable to make distributions to shareholders or subordinated lenders.

It was apparent that additional capital was required in order for the Company to be viable in the longer term, thus the directors agreed with the lenders that Close Brothers Corporate Finance ("Close") be instructed to identify potential purchasers for the Company via a sale of the Company's shares. A small number of potentially interested parties were identified, but it became apparent that a consensual sale would not be possible.

In the absence of a consensual sale the Senior Lending Syndicate appointed Deloitte & Touche to carry out a review of the Company in November 2002. During this period the marketing of the business by Close continued and it became clear that given the Company's liabilities, a sale of the Company' shares was not going to be achievable without an extensive restructuring. The continued marketing of the business identified a handful of parties who would be interested in acquiring the business and assets together with certain liabilities of the Company.

On 15 April 2003 the Senior Lending Syndicate rescinded the waiver and made demand under its security. Following this and the Company's inability to pay the Directors invited the syndicate to appoint Ian Brown and Nicholas James Dargan as Joint Administrative Receivers of the Company.

### **4. Statement of Affairs**

As required by Section 47 of the Insolvency Act 1986, the Directors of the Company were requested to prepare a statement of affairs of the Company as at 15 April 2003. The Statement of Affairs was sworn by the Directors on 23 May 2003 and submitted to me shortly thereafter. A summary of the Statement of Affairs is attached as Appendix 1 to this report.

## 5. Actions taken since appointment

During the period preceding the removal of the covenant waiver Deloitte & Touche continued to advise the Senior Lending Syndicate in respect of the Company. As part of this process liaison on the sales process took place with both the Directors of the Company and their financial advisers, Close. These discussions confirmed that a share sale without a restructuring was not achievable, and it was accepted by all parties that a period of trading post any insolvency appointment would severely affect the value of the business and may have led to the withdrawal of the existing offers. Therefore it became clear that to preserve the value of the business any disposal involving insolvency as a restructuring tool, needed to be accomplished immediately following the Company entering into a formal insolvency appointment.

In order for the sale to be completed in this manner the Administrative Receivers needed to satisfy themselves that the price being offered was reasonable and to this end independent Corporate Financiers were instructed to provide assurance on two matters:-

- Had the marketing exercise carried out by Close been done in such a way as to have identified all the likely purchasers of the business?; and
- Would the value being obtained for the business be enhanced by any further period of marketing either pre or post an insolvency process?

This review was carried out in the context of the significant period of marketing which Close had already undertaken in its attempts to find a buyer for the Company's business.

In the light of this advice which I received immediately following my appointment, I completed a sale of the business and assets of the Company to Sembcorp. The gross value received for the assets of the business was circa £133 million. However Sembcorp agreed to assume various liabilities of the Company which total some £36 million leaving a net sum of £97 million which I received.

## 6. Amounts of Principal and Interest Due to the Debenture Holders.

The Company had been provided with senior lending facilities by a syndicate of Banks. Under the terms of a debenture dated 31 December 1998, the senior lenders have a fixed and floating charge over all the assets of the Company. The amount of principal and interest due to the senior lenders at the date of my appointment is as follows:-

	£
Principal	77,388,182
Interest	<u>1,168,952</u>
Total	<u>78,557,134</u>

In addition to the amounts owing directly to the Senior Lenders there are amounts included within the Senior Lender priority agreement that rank alongside the Senior Debt. These additional amounts total £9.0 million and are due to various Enron Group Companies.

## 7. Preferential Creditors

The preferential creditors of the Company as set out in the Directors' statement of affairs are as follows:-

	£'000
H.M. Customs & Excise-VAT	129
Inland Revenue-PAYE & NIC	<u>324</u>
	<u>453</u>

As mentioned above Sembcorp has agreed to assume these liabilities under the terms of the business purchase agreement. In addition the liabilities relating to employees employed at the date of sale have been assumed by the purchaser.

## 8. Amounts likely to become available to other creditors

In addition to the sums mentioned above there is within the business purchase agreement an earn out clause which causes amounts to be paid to ETOL from Sembcorp at various stages, dependent on the happening of specified events. These potential further receipts total £3.75 million which could be received by 31 December 2004. However I would stress the contingent nature of these amounts. In addition to this as mentioned above I am currently examining together with my lawyers, the validity of the Enron Group hedging claims which fall to be paid under the Inter Creditor deed and the availability of set off. I am also pursuing a further realisation from an Enron Group Company relating to capital allowances surrendered to that Company by ETOL. I am currently in discussion with the Inland Revenue about this repayment which could total £1.2 million.

It is difficult at this stage to forecast the amount which may become available to unsecured creditors given that there are a number of scenarios which may occur. The minimum which I expect will become available to unsecured creditors is circa £6 million and the maximum is circa £15.5 million, both estimates are made after a provision for the costs of the Receivership.

The statement of affairs shows the amount due to the unsecured creditors of the Company as follows:-

	£'000
Trade Creditors	23,279
Provisions	24,630
Subordinated lenders (Including Make-whole)	156,399
Dividend payable	<u>3,600</u>
	<u>207,908</u>

Under the terms of the business purchase agreement between the Administrative Receivers and Sembcorp, Sembcorp has agreed to assume the liability for trade creditors. Normally in such circumstances Sembcorp would have a right of subrogation with respect to those claims, however it has agreed in these circumstances to waive that right.

No provision has been made on the statement of affairs for any amount which may become payable to ICI plc. When ETOL was acquired from ICI in 1998 it became party to a gas guarantee counter indemnity. Whereas no events have yet occurred which would trigger any liability under this guarantee, should it come into play the liability of ETOL could be significant. The gross liability before mitigation could be in excess of £200 million.

Can I emphasise that the level of any surplus which will become available to unsecured creditors will depend in part on future asset realisations and the result of the ENAC set off position. I have taken the figures for unsecured creditors from the Director's statement of affairs and it will be the responsibility of the Liquidator, when appointed, to agree the claims of the unsecured creditors.

**9. Section 48 meeting**

This report, which is available free of charge on request by creditors of the Company, will be presented to a meeting of unsecured creditors convened under Section 48 of the Insolvency Act 1986, to be held on Friday 11 July 2003 at 2.30pm at the Cellnet Riverside Stadium, Middlesbrough.

**I.Brown**  
**Joint Administrative Receiver**

Rule 3.4

Form 3.2

**Statement of Affairs**Statement as to the Affairs of **Enron Teesside Operations Limited**

On 15 April 2003

**Affidavit**

This Affidavit must be sworn before a Solicitor or Commissioner of Oaths or an officer of the court duly authorised to administer oaths when you have completed the rest of this form.

I, David Michael Guy  
7 Baliol Croft, Long Newton, Stockton, Teesside, TS21 1PX  
of \_\_\_\_\_

Swear/affirm that the several pages exhibited hereto and marked 2 to 15 are to the best of my knowledge and belief a full, true and complete statement as to the affairs of the above named company as at 15 April 2003 the date of the appointment of the joint administrative receivers and that the said company carried on business as a provider of utilities and services.

Sworn/affirmed at JACKSONS SOLICITORS STOCKTON ON TEES CLEVELAND

Date 23 MAY 2003.

Signatures D M Guy

Before me

A Solicitor or Commissioner of Oaths

JACKSONS  
INNOVATION HOUSE  
YARM ROAD  
STOCKTON-ON-TEES  
TS18 3TN

The Solicitor or Commissioner is particularly requested, before swearing the affidavit, to make sure that the full name, address and description of the Deponent are stated, and to initial any crossings-out or other alterations in the printed form. A deficiency in the affidavit in any of the above respects will mean that it is refused by the court, and will necessitate its being re-sworn



**A-Summary of Assets****ASSETS****Assets specifically pledged:-**

Debtors Ledger  
 Other Debtors and Prepayments  
 Land  
 Buildings  
 Cash relating to land sale  
 Fixed Plant and Machinery  
 Know How, books and records  
 Total  
 Due to Charge Holders (Appendix 1)  
 National Westminster Bank plc  
 Enron North America Corp <sup>(1)</sup>  
 Enron Europe Limited  
 Fixed Charge deficit

Book Value £	Estimated to Realise £
20,670,736.86	20,670,736.86
6,421,615.78	6,421,615.78
12,316,158.00	12,316,158.00
4,524,400.00	4,524,400.00
4,550,000.00	4,550,000.00
11,701,782.00	11,701,782.00
<u>11,910,272.00</u>	<u>11,910,272.00</u>
72,094,964.64	72,094,964.64
(78,546,001.00)	(78,546,001.00)
(1,958,645.00)	(4,000,000.00)
<u>(5,031,818.00)</u>	<u>(5,031,818.00)</u>
(13,441,499.36)	(15,482,854.36)
61,984,274.00	61,984,274.00
3,080,362.73	3,079,138.00
	1,200,000.00
75,000.00	75,000.00
9,765,036.14	9,765,036.14
<u>£74,904,672.87</u>	<u>£76,103,448.14</u>

**Assets not specifically pledged:-**

Plant and Machinery  
 Stocks  
 EELP tax deal  
 GTMA deposit agreements  
 Cash

<sup>(1)</sup> Currently investigating whether this liability can be offset against monies due to ETOL under the financial Hedge Swap.  
 The liability also includes a liability of \$270,000 due to Risk Management Trading Corp

**Estimated total assets available for preferential creditors**

Signature

*D M Gully*

Date 23/5/03

**A1- Summary of Liabilities**

	Book Value £	Estimated to realise £
<b>Estimated total assets available for preferential creditors (carried from Page A)</b>	<b>£74,904,672.87</b>	<b>£76,103,448.14</b>
<b>Liabilities</b>		
<b>Preferential creditors <sup>(2)</sup> :-</b>		
Inland Revenue (Appendix 2)	324,419.06	324,419.06
HM Customs & Excise (Appendix 2)	128,547.47	128,547.47
<b>Estimated deficiency/surplus as regards preferential creditors</b>	<b>74,451,706.34</b>	<b>75,650,481.61</b>
<b>Debts secured by a floating charge:-</b>		
Deficit from fixed charge	(13,441,499.36)	(15,482,854.36)
<b>Estimated deficiency/surplus of assets available for non-preferential creditors</b>	<b>61,010,206.98</b>	<b>60,167,627.25</b>
<b>Non-preferential claims:-</b>		
Trade Creditors (Appendix 3) <sup>(2)</sup>	23,279,178.04	23,279,178.04
Provisions (Appendix 4) <sup>(2)</sup>	24,629,517.36	24,629,517.36
Subordinated debt holders capital and interest (Appendix 5)	85,114,761.89	85,114,761.89
Subordinated debt holders make whole amount (Appendix 5)	71,284,909.30	71,284,909.00
Dividend payable	3,600,000.00	3,600,000.00
<b>Estimated deficiency/surplus as regards creditors</b>	<b>(146,898,159.31)</b>	<b>(147,740,739.04)</b>
<b>Issued and called up capital:-</b>	<b>2,769,000.00</b>	<b>2,769,000.00</b>
<b>Estimated total deficiency/surplus as regards members</b>	<b>(149,667,159.31)</b>	<b>(150,509,739.04)</b>

(2) Liabilities relating to preferential creditors, trade creditors and provisions have been assumed by Eagle 2 Limited under the terms of an agreement to buy ETOL's assets.

Signature

D H Amy Date23/5/03