

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
HOUSTON LIGHTING & POWER COMPANY,)	Docket Nos. 50-498A
et al.)	and 50-499A
)	
(South Texas Project, Unit Nos.)	
1 and 2))	
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)	
In the Matter of)	
)	
TEXAS UTILITIES GENERATING COMPANY,)	Docket Nos. 50-445A
et al.)	and 50-446A
)	
(Comanche Peak Steam Electric)	
Station, Unit Nos. 1 and 2))	

SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES BOARD OF THE
CITY OF BROWNSVILLE, TEXAS TO HOUSTON LIGHTING & POWER
COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND TO
HOUSTON LIGHTING & POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

The Public Utilities Board of the City of Brownsville,
Texas ("PUB") hereby supplements its May 2, 1979 Response to
Houston Lighting & Power Company's First Request for
Production of Documents and First Set of Written
Interrogatories.

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24. Identify separately every area in which PUB competes with HL&P, including but not limited to:

(a) every known instance of competition between HL&P and PUB to serve retail electric customers;

Answer

24. PUB cannot identify any specific instances of competition between HL&P and PUB to serve retail electric customers, since in the normal course of business potential industrial customers do not, in inquiring about PUB's rates and services, discuss the other utilities from which they may be seeking such information.

The Port of Brownsville, which is administered by the Brownsville Navigation District, is the area in Brownsville most suited for large industry. Officials of the Brownsville Navigation District state that they receive numerous inquiries from industries which are considering the Port area as a plant site about the availability and price of electricity and other utility services, and that the reliability and cost of electricity are of principle interest to such industries. The Port officials believe that PUB service may not be competitive with service provided by other utilities in this regard and believe they lose and have lost potential industry in the area because of this, as is shown in the documents supplied in response to Interrogatory No. 43. These officials cannot identify such industries specifically, nor do their records appear to be maintained in such a way as to provide this information.

26. List and describe every instance since January 1, 1968, known to PUB in which an officer or director of PUB has prepared or approved any writing, including handwritten notes, or made or approved any oral statement that concerns the presence, absence or extent of competition between PUB and any other electric utility, excluding pleadings, motions, or affidavits filed in any proceeding to which HL&P is a party. State the identity and location of every document referring or relating to or setting forth the matters inquired into in this Interrogatory.

Answer

Documents relating to competition between PUB and CP&L and Magic Valley Electric Cooperative to serve the El Valle North and Iowa Estates Subdivisions are attached.

Also attached are a number of documents which, while certainly relating to competition, do not specifically comprise statements by PUB members or officials as to the presence or absence of competition. Statements relating to 1/ competition between PUB and neighboring utilities are reflected from time to time in the minutes of meetings of the Public Utilities Board which are available for inspection in Brownsville.

Documents relating to CP&L's 1968 offer to purchase the PUB electric system and PUB action in response to that offer are provided since PUB regards this kind of take over attempt as a form of competition between organizations.

1/ These statements relate to competition in the sense that if competition did not exist such statements would not be made.

33. State separately every action or course of conduct by HL&P that PUB believes has injured its competitive position in any relevant market, and with respect to each such action separately state:

Answer

As initially stated in response to this interrogatory, PUB believes that its competitive position in acquiring large retail industrial load and in obtaining bulk power supply and generation fuels has been injured by HL&P's exclusionary conduct. These actions by HL&P are described in response to Interrogatory No. 34.

33(b) the identity of every actual and/or potential competitor in that market;

Answer

PUB's actual and potential competitors for retail industrial customers are other electric utilities located in and around Texas.

PUB is also in actual or potential competition for economic bulk power supply with other electric utilities located in and around Texas. Documents detailing PUB's efforts, in competition with the South Texas Electric Cooperative and Medina Electric Cooperative, to obtain an allocation of power from the Falcon-Amistad Dam Hydroelectric Projects are attached. PUB is in actual and potential competition with any other electric utility which has sought, or will seek, to obtain bulk power from those utilities from which PUB has similarly sought bulk power supply arrangements. See PUB's response to Interrogatory Nos. 6, 7 and 8, and documents supplied in response to those interrogatories.

33(e). the identity of every actual and/or potential customer in the market with respect to whom PUB's competitive position has been injured;

Answer

As stated in response to Interrogatory No. 24, PUB cannot specifically identify actual or potential customers with respect to whom PUB's competitive position has been injured.

34. Separately state every action or course of conduct by HL&P that PUB believes has restricted PUB's access to any relevant market, and with respect to each such activity or course of conduct separately state:

Answer

34. As stated in its initial response to Interrogatory No. 33, PUB believed it has been injured by HL&P's exclusionary conduct restricting PUB's access to bulk power supply and related power supply services and limiting PUB's ability to economically and reliably serve its customers.

HL&P has concurred with and participated in actions of TIS and STIS excluding, until March of this year, PUB from membership in those organizations. From 1968 until its most recent request in January 1979, PUB on numerous occasions sought membership in TIS, both in writing and during meetings with CP&L. PUB's requests were, until March, either denied, ignored or simply referred to another person--who denied or ignored them.

Attached are a letter dated October 30, 1968, from R. E. Schneider, PUB, to P. K. Robinson, HL&P, requesting membership in STIS, internal HL&P office memoranda dated November 14, 1968, from E. D. Scarth to B. B. Hulsey, and from P. K. Robinson to F. Austin, and an undated memorandum from L. D. Collins concerning a meeting of STIS on May 21, 1969, all obtained from the U. S. District Court discovery documents made available to PUB in Houston. These documents indicate that HL&P was aware of PUB's requests for membership in TIS and agreed with and supported a policy to exclude PUB, and similar small municipal utilities, from

such membership. The May 21, 1969 memorandum further shows that STIS and TIS, and HL&P as a member thereof, were deliberately pursuing a policy intended to restrict PUB and other municipal utilities from membership in TIS and STIS.

HL&P is signatory to the South Texas Project Participation Agreement, executed as of July 1, 1973. As such, HL&P, together with the other parties to that Agreement, effectively denies PUB access to that nuclear project. Both Section 8.2 of the Agreement requiring that each participant construct and own transmission facilities between its system and the STP switchyard, and Section 18, establishing rights of first refusal, copies of which are attached, are exclusionary provisions which function to virtually deny small systems such as PUB the opportunity to participate.

HL&P has concurred with and participated in actions intended to restrict ERCOT electric utilities from operating interstate. As indicated in response to Interrogatory Nos. 36 and 37, HL&P together with the Texas Utilities companies instigated the Texas Public Utility Commission's Docket No. 14 proceedings, which resulted in Orders restraining ERCOT utilities from operating interstate. The record of this proceeding shows that HL&P vigorously advocated this result. While PUB representatives have reviewed the record of this proceeding, PUB was not party to it and believes that HL&P possesses more complete documentation relating to it than does PUB.

Prior to the Texas PUC Docket 14 proceedings, HL&P had participated in bilateral agreements which permitted HL&P to disconnect and terminate the agreement if the other party entered interstate operation. Judge Porter, in his January 30, 1979 Order found this to be the case (p. 12):

"It has been the common understanding and agreement among all the electric utilities and TIS that if one of the members of the TIS decided to commence interstate operations, it would provide prior notice to the other members so that each could independently decide whether to exercise its unilateral right to disconnect and remain in an intrastate mode. This understanding was, for example, reflected in the WTU-TESCO contract which was subject to immediate cancellation by telephonic notice. Plaintiff gave no notice prior to their commencement of interstate operation on May 4, 1976 because they feared defendants would exercise their right to disconnect."

Numerous documents in the U.S. District Court antitrust case discovery indicate that TIS and ERCOT, and HL&P as a member thereof, drafted reports and responded to various requests for information from FPC and NERC relating to interconnection with the Southwest Power Pool and related matters in ways intended to discourage NERC and FPC interest in pursuing such an interconnection. Certain of these documents are being supplied. PUB is continuing its review of documents produced and being produced in response to its discovery requests and anticipates that it will be able to identify further such documents.

As indicated in the attached documents (obtained by PUB through its discovery requests), it appears that during the 1973 gas curtailments, TIS members were able to assist each other through power transfers and joint scheduling of gas curtailments, thereby alleviating some of the fuel and maintenance costs associated with extensive gas curtailment.

Because of its exclusion from TIS and STIS, PUB was deprived of the benefits of a coordinated response to extensive gas curtailment, and has been disadvantaged relative to the TIS members, including HL&P, who benefited from their coordinated response to that situation.

35. Separately state every action or course of conduct by HL&P that PUB believes has caused a degradation in PUB's ability to serve its customers, and with respect to each such action or course of conduct separately state:

Answer

35. PUB's ability to serve its customers has been degraded by the actions and course of conduct of HL&P described in response to Interrogatory Nos. 33 and 34. As stated in response to Interrogatory No. 43, the adverse impact upon PUB's reliability of these actions cannot be quantified. However, since PUB's general system reliability is adversely affected, all of PUB's customers have suffered some degree of reduced service reliability as a result of HL&P exclusionary conduct. Such service reliability problems are shown by the documents supplied in response to Interrogatory No. 29 concerning Union Carbide Corporation and the documents supplied in response to Interrogatory No. 43 concerning service to the Brownsville Navigation District.

43. State whether HL&P has ever denied PUB access to any service or facility that PUB considered necessary to effectively serve its customers, and if so separately state:

- (a) the service or facility denied;
- (b) the date of such denial;
- (c) the person(s) at HL&P denying such service or facility;

* * * *

43. PUB believes its exclusion from TIS and STIS has had a generalized and continuing adverse impact on its reliability and cost of service. Without a detailed study, however, PUB is not able to quantify this adverse impact further than it has in its initial response to this interrogatory.

Article I of the 1969 amendment of the 1967 Texas Interconnected System Coordination Agreement states:

"1.1 The purpose of this Agreement is to augment further the reliability of the bulk electric power supply systems of the parties . . . recognizing that reliability can best be achieved through coordination of the planning and operation of a manageable number of electric systems operating within a major area of reasonable geographical boundaries."

Being excluded from TIS, PUB has been excluded from the "further augmentation of the reliability of its bulk power supply"--the stated purpose of the Coordination Agreement--and has been disadvantaged relative to the TIS members whose reliability is enhanced as a result of their participation in the agreement. This disadvantage is well illustrated in PUB's response to Interrogatory No. 29 and the documents supplied in response thereto concerning Union Carbide Corporation and in documents previously supplied in response to this Interrogatory.

PUB's disadvantage is further illustrated by the inadequate transmission to which it is interconnected, and the past general policies against wheeling. That policy, which appears to have been general throughout TIS, a conclusion supported by the terms of the South Texas Participation Agreement, permits CP&L to threaten an effective cessation of service by failing to strengthen its inadequate transmission and to decline to permit PUB itself to strengthen that transmission, unless PUB agrees to CP&L's onerous terms on other unrelated matters, thus damaging PUB's competitive position. Further, as is evidenced by HL&P's participation in denying PUB access to TIS and STIS, there appears to have been a general refusal to deal in bulk power services to PUB's disadvantage.

44. Separately describe every instance in which PUB studied or analyzed the possibility of taking electric power from the South Texas Project, and with respect to each instance state separately:

(a) whether PUB made any study of the cost of obtaining power from the South Texas Project, and if so fully describe the cost identified by such study;

Answer

Burns & McDonnell, consulting engineers, are presently engaged in a power supply study on behalf of PUB. Ownership participation in the South Texas Project is among the power supply alternatives they are considering. Recently obtained preliminary results of this study indicate that, of the alternatives studied (including purchased wholesale power and joint participation in a lignite fired plant, among others), the purchase of 100 MW of the South Texas Project would be the least expensive of PUB's power supply alternatives over the 20-year period studied.

Over the 20-year study period, the total incremental cost to PUB to meet its power supply needs by purchasing wholesale power from CP&L would be \$1,306,758,000. The total incremental cost involved in purchasing 50 MW of the first South Texas unit and 50 MW of the second South Texas unit over the 20-year study period would be \$1,157,694,000.

Based on capital and fuel cost estimates provided PUB by Austin and CP&L, Burns & McDonnell estimate that the cost of purchasing 50 MW of the first STP unit would be \$1,122 per kw, in 1983 dollars, and the cost of purchasing 50 MW of the second STP unit would be \$970 per kw, in 1984 dollars.

A copy of these preliminary results has been requested and will be provided as soon as we receive it.

In general, present PUB personnel are familiar with the basic economics of various modes of generation, including nuclear generation, and concluded, in early 1978, that the South Texas Project would probably be an attractive source of power supply for PUB if access and wheeling could be arranged. No detailed study was done at that time other than general investigation of parameters.

In 1974, a consulting engineer for PUB, after discussion with CP&L, concluded that South Texas would be a very desirable source of power for PUB, but that the policy of the applicants which required each participant to bring its own transmission to the plant site would increase the cost so much as to make participation by PUB infeasible. The Project was then anticipated to cost something in excess of \$400 per kw, and to be on line in the Fall of 1980 and the Fall of 1982.

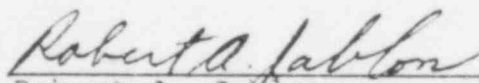
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(Comanche Peak Steam Electric)	
Station, Unit Nos. 1 and 2))	

AFFIDAVIT

I, Robert A. Jablon, being first duly sworn, depose and state that I am counsel for the Public Utilities Board of the City of Brownsville, Texas, that the foregoing SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON LIGHTING AND POWER COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND TO HOUSTON LIGHTING AND POWER COMPANY'S FIRST SET OF WRITTEN INTERROGATORIES from the Public Utilities Board of the City of Brownsville, Texas, was prepared at my direction and under my supervision, that I have reviewed such Response, and that the information and matters set forth therein are true and correct to the best of my information, knowledge and belief.


Robert A. Jablon

Subscribed and Sworn to before me this 26th day of June, 1979.

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Notary Public

My Commission Expires September 30, 1979

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BEFORE THE
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AFFIRMATION OF SERVICE

DISTRICT OF COLUMBIA, ss:

I, SUSAN G. WHITE, being first duly sworn, affirm that copies of the foregoing SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON LIGHTING AND POWER COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND TO HOUSTON LIGHTING AND POWER COMPANY'S FIRST SET OF WRITTEN INTERROGATORIES in the above-captioned proceeding have this 26th day of June, 1979 been served upon the following persons by deposit in the U. S. mail, first class, postage prepaid:

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SUBSCRIBED AND SWORN TO before me, a Notary Public in
and for the City of Washington, District of Columbia, this
26th day of June, 1979

Notary Public

My Commission Expires September 30, 1979

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