

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PDR
NRC PUBLIC DOCUMENT ROOM

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

RESPONSE OF TEX-LA ELECTRIC COOPERATIVE, INC.
TO FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS
FROM TEXAS UTILITIES GENERATING COMPANY 1/

In accordance with the provisions of Rule 2.740(b) of this Commission's Rules of Practice, Tex-La Electric Cooperative, Inc. (hereafter "Tex-La") hereby responds to Texas Utilities Generating Company's (hereafter "TUGCO") First Set of Interrogatories and Requests for Production of Documents.

1/ This response to Texas Utilities Generating Company's First Set of Interrogatories is tendered on behalf of ten of the original seventeen cooperatives which petitioned for intervention in this cause. The cooperatives responding are as follows:

Cherokee County Electric Cooperative Association
Deep East Texas Electric Cooperative, Inc.
Houston County Electric Cooperative, Inc.
Jasper-Newton Electric Cooperative, Inc.
Rusk County Electric Cooperative, Inc.
Sam Houston Electric Cooperative, Inc.
Wood County Electric Cooperative, Inc.
Bowie-Cass Electric Cooperative, Inc.
Panola-Harrison Electric Cooperative
Upshur Rural Electric Cooperative Corp.

(footnote continued on next page)



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Interrogatory 1(a):

Identify each witness, other than an expert witness, whom Tex-La expects to or may call in these proceedings and provide a summary of all matters (including the substance of all facts) as to which each such witness is expected to or may testify.

Answer:

The following individuals may be called upon to testify for Tex-La in this proceeding:

Mr. Juan D. Nichols
Wood County Electric Cooperative, Inc.
501 South Main
P.O. Box 398
Quitman, Texas 75783

Mr. John H. Butts
Deep East Texas Electric Cooperative, Inc.
P.O. Drawer N
San Augustine, Texas 75972

Mr. Eldridge Striedel
Sam Houston Electric Cooperative, Inc.
Hwy. 190 East
P.O. Box 1121
Livingston, Texas 77351

Mr. Fred S. Buchanan
Cherokee County Electric Cooperative Association
117 W. 5th
P.O. Box 257
Rusk, Texas 75785

(footnote 1 continued from previous page)

As discussed during the deposition of Mr. Robert Gross, Tex-La intends to notify the Board that the following cooperatives should be deleted as party intervenors in this proceeding:

Fannin County Electric Cooperative, Inc.
Farmers Electric Cooperative, Inc.
Grayson-Collin Electric Cooperative, Inc.
Hunt-Collin Electric Cooperative, Inc.
Kaufman County Electric Cooperative, Inc.
Lamar County Electric Cooperative Association
New Era Electric Cooperative, Inc.

In general, these individuals may be asked to testify to, inter alia, their individual electric utility systems (operations and planning), their customers, and their bulk power suppliers (existing and potential).

Interrogatory 1(b):

Identify all documents upon which each such witness is expected to or may rely in any way, and provide copies of any such document not already in the possession of TUGCO.

Answer:

Documentary materials which may be relied upon by these witnesses have not been identified at this time.

Interrogatory 2(a):

Identify each expert witness whom Tex-La expects to or may call in these proceedings.

Answer:

Mr. Robert M. Gross, Jr.
Southern Engineering Company of Georgia
1000 Crescent Avenue, N.E.
Atlanta, Georgia 30309

Mr. O. Franklin Rogers
Southern Engineering Company of Georgia
1000 Crescent Avenue, N.E.
Atlanta, Georgia 30309

Mr. David A. Springs
Southern Engineering Company of Georgia
1000 Crescent Avenue, N.E.
Atlanta, Georgia 30309

Interrogatory 2(b):

State (or produce) the educational and professional qualifications, experience, and credentials of each such expert witness.

Answer:

See Attachments A, B, and C, respectively.

Interrogatory 2(c):

State the subject matter on which the expert is expected to or may testify.

Answer:

See Attachments A, B, and C, respectively.

Interrogatory 2(d):

Provide a summary of the testimony which each such witness is expected to or may offer, including the substance of all facts and all opinions to which the expert is expected to or may testify.

Answer:

The individuals listed as possible expert witnesses in answer to interrogatory 2(a) have not had sufficient opportunity to determine what areas of study, if any, need be prepared in connection with this proceeding. No studies have been conducted nor are any planned at this time. Simply stated, a summary of testimony for each expert witness is premature at this point.

Interrogatory 2(e):

State the grounds for each opinion each such expert witness expects to or may present in his/her testimony.

Answer:

See answer to interrogatory 2(d).

Interrogatory 2(f):

Identify all documents prepared by, for, or under the supervision of each such expert witness, or reviewed or relied upon in any way by such expert in the performance of his/her duties, formulation of his/her conclusions or opinions, or preparation of his/her testimony, including particularly work papers, status reports, preliminary outlines and memoranda, and communications between such expert and Tex-La or any of its members, any party to the proceeding, or any person with knowledge in any way relied upon by such expert, and provide copies of any such document not already in the possession of TUGCO.

Answer:

With the exception of documents previously provided counsel for TUGCO in connection with the deposition of Mr. Robert M. Gross, Jr. and the communications with Tex-La members discussed during the course of such deposition, there are none. (See transcript of deposition of Mr. Gross.)

Interrogatory 2(g):

Identify any person affiliated with a party to these proceedings, and (separately) each other person, from whom information was obtained which is in any way relied upon or taken into account by such expert, with whom such expert has communicated.

Answer:

To the best of our knowledge, there has been no receipt of information from any party to this proceeding which has in any way been relied upon or taken into consideration by the potential expert witnesses listed in interrogatory 2(a).

Interrogatory 2(h):

Provide a copy of any contracts, letter agreements, or other understandings between the prospective witness or his employer and Tex-La or any of its members or successors of either which relate in any way to these proceedings.

Answer:

There are no contracts or letter agreements between the prospective expert witnesses listed in interrogatory 2(a) or his employer and Tex-La which relate to these proceedings. It is understood, however, that Mr. Robert Gross will evaluate this proceeding and advise Tex-La in a timely manner as to his recommendations regarding the nature and extent of testimony which should be prepared in connection with this proceeding.

Interrogatory 2(i):

Identify all documents not produced in response to the foregoing which have been sent or given to the prospective witness or his or her employer or to which his/her/their attention has been directed which relate in any way to these proceedings, and provide copies of any such document not already in the possession of TUGCO.

Answer:

To the best of our knowledge, TUGCO has been provided all documents relating to this proceeding which have been sent or given to the prospective expert witnesses listed in interrogatory 2(a).

Interrogatory 3:

With respect to each expert witness listed in your response to Item 2.(a),

(a) list each judicial or administrative proceeding since January 1, 1970 in which each individual has been proffered as an expert witness.

Answer:

Mr. Gross has testified as a rate expert and cost of service witness before the State Commissions of Kentucky, Indiana, Michigan, Vermont, Texas, and Virginia. He has also testified before the Federal Power Commission in proceedings involving Mississippi Power Company, FPC Docket No. E-7685; Appalachian Power Company, FPC Docket No. E-7775; Duke Power Company, FPC Docket No. E-7994;

Gulf States Utilities Company, FPC Docket No. E-8911; Appalachian Power Company, FPC Docket No. E-9101; Virginia Electric Company, FPC Docket No. E-9147; Arizona Public Service Company, FPC Docket No. E-8624; Public Service Company of Indiana, Inc., FPC Docket Nos. ER76-149 and E-9537; Carolina Power & Light Company, FPC Docket No. ER75-495; Georgia Power Company, FPC Docket Nos. E-9101, E-9521, E-9522, ER76-587 and ER78-166; Southern California Edison Company, FPC Docket No. ER76-205; Carolina Power & Light Company, FERC Docket No. ER77-485; Kansas Gas & Electric Company, FERC Docket No. ER77-578 and Louisiana Power & Light Company, FERC Docket No. ER77-533.

Mr. O. Franklin Rogers has testified as a rate expert before several State Commissions including North Carolina, South Carolina, Kentucky, and Indiana. He has previously testified before the Federal Power Commission in the following proceedings: Mississippi Power & Light Company, FPC Docket No. E-7577; Carolina Power & Light Company, FPC Docket No. E-7564; Georgia Power Company, FPC Docket No. E-7548; Public Service Company of Indiana, FPC Docket No. E-7645; Alabama Power Company, FPC Docket No. E-7674; Gulf Power Company, FPC Docket No. E-7686; Mississippi Power Company, FPC Docket No. E-7625; Florida Power Corporation, FPC Docket No. E-7679; Duke Power Company, FPC Docket No. E-7720; Pennsylvania Electric Company, FPC Docket No. E-7718; Public Service Company of New Hampshire, Docket No. E-7742; Indiana and Michigan Electric Company, FPC Docket No. E-7740; Virginia Electric and Power Company, FPC Docket No. E-8026; Carolina Power & Light Company, FPC Docket No. E-8881; Toledo Edison Company, FPC Docket No.

E-7929; Consumers Power Company, FPC Docket No. E-7803; Appalachian Power Company, FPC Docket No. E-7775; Mississippi Power Company, FPC Docket No. E-7625; Carolina Power and Light Company, FPC Docket No. E-8884; Alabama Power Company, FPC Docket No. E-8851; Gulf Power Company, FPC Docket No. E-8911; Potomac Electric Power Company, FPC Docket No. E-8741; Florida Power & Light Company, FPC Docket No. E-8008; Delmarva Power & Light Company, FPC Docket No. E-8947; and Mississippi Power Company, FPC Docket No. E-9135.

Mr. Rogers has also testified before the Atomic Safety and Licensing Board of the United States Atomic Energy Commission (now the Nuclear Regulatory Commission) in Consumers Power Company (Midland Plant, Units 1 and 2), NRC Docket Nos. 50-329A and 50-330A. Additionally, he has testified before the Atomic Safety and Licensing Board in the matter of Alabama Power Company (Joseph M. Farley Nuclear Plants, Units 1 and 2), NRC Docket Nos. 50-348A and 50-364A.

Mr. Springs has testified before the Federal Energy Regulatory Commission in Carolina Power and Light Company, Docket No. E-7564; Georgia Power Company, Docket Nos. E-7548 and E-9091; Florida Power Corporation, Docket No. E-7679; Duke Power Company, Docket No. E-7720; Central Vermont Public Service Company, Docket No. E-7685; and Florida Power and Light Company, FERC Docket No. ER78-19. He has also testified before the Atomic Energy Commission (now the Nuclear Regulatory Commission) in Alabama Power Company, Joseph M. Farley Nuclear Plant, Units 1 and 2, Docket Nos. 50-348A and 50-364A. He has also testified before the Public Service Board of the State of Vermont on two occasions.

(b) As to each such proceeding, indicate whether he or she was accepted as an expert witness.

Answer:

It is our understanding the prospective expert witnesses listed in interrogatory 2(a) were accepted as expert in all proceedings in which they have testified.

(c) Provide a copy of the testimony of each such witness as an expert witness in any judicial or administrative proceeding since January 1, 1970.

Answer:

In answer to interrogatory 3(a), Tex-La has endeavored to provide a listing of the proceedings, including docket numbers, which involve the testimonies of the prospective expert witnesses. As discussed with counsel to TUGCO, due to the overall bulk of these documents, they are being forwarded to TUGCO under separate cover.

(d) List the publications of each such witness.

Answer:

The prospective witnesses listed in answer to interrogatory 2(a) are reviewing their files to determine their respective publications. This review process is incomplete at this time. A listing of the publications will be produced as soon as they become known and available.

Interrogatory 4(a):

Identify every document or thing which Tex-La expects to offer in evidence in these proceedings, other than the testimony

of witnesses summarized in response to the preceding interrogatories.

Answer:

At present, Tex-La is unable to determine which document(s), if any, will be offered into evidence in these proceedings.

Interrogatory 4(b):

Produce or make available the documents or things identified in 4(a) to the extent not already in the possession of TUGCO.

Answer:

See answer to interrogatory 4(a).

Interrogatory 5(a):

Identify each person affiliated with Tex-La who has, since January 1, 1972, communicated with either the NRC Staff (or predecessor AEC Staff) or the Antitrust Division of the Department of Justice (state which) with regard to any matter pertaining to the antitrust review or antitrust aspects of the Comanche Peak proceeding.

Answer:

Mr. Juan D. Nichols, Mr. John H. Butts, Mr. Eldridge Striedel, Mr. E.R. Rhodes, and Mr. J.L. Johns. (See answer to interrogatory 5(b).)

Interrogatory 5(b):

Specify (by date) and describe each occasion on which such communication took place and the nature and form of such communication.

Answer:

On January 17, 1979, counsel for the Nuclear Regulatory Commission Staff and the Department of Justice met with Mr. Rhodes, Mr. Striedel, Mr. Nichols, Mr. John Butts, and counsel for Tex-La. The purpose of this meeting was primarily to familiarize government counsel with the general organizational structure and operations of the Tex-La cooperatives and their intent to form three G&T cooperatives. Also discussed were the effects of split-systems, rate comparisons, and access to Comanche Peak.

On June 5, 1979, counsel for the Nuclear Regulatory Commission met with Mr. John Butts, Mr. Juan Nichols, and counsel for Tex-La. This meeting was concerned with the reorganization plans of Tex-La and Tex-La's interest in participating in the Comanche Peak project, the effect of split-systems and rate comparisons.

On June 6, 1979, counsel for the Department of Justice met with Mr. Nichols and counsel for Tex-La. This meeting was concerned with the reorganization plans of Tex-La and Tex-La's interest in participating in the Comanche Peak project, the effect of split-systems and rate comparisons.

On June 14, 1979, counsel for the Department of Justice met with Mr. J.L. Johns. The purpose of this meeting was to discuss the organizational structure of Tex-La in general, the operations of Upshur-Rural Electric Cooperative, Inc., and the formation of Northeast Texas Electric Cooperative, Inc.

Interrogatory 5(c):

Identify the other person or persons involved in the communication.

Answer:

In addition to Tex-La members, counsel for Tex-La, counsel for the Nuclear Regulatory Commission and the Department of Justice, the following individuals participated in the meetings referenced in answer to interrogatory 5(b):

Meeting of January 17, 1979: William Zelinsky
Robert M. Gross

Meeting of June 5, 1979: William Zelinsky
Rodney Frame

Interrogatory 5(d):

State the substance of each communication to the extent such is not documented in correspondence, memoranda, summaries, notes, minutes or the like, which you are hereby requested to identify and produce.

Answer:

To our knowledge, no memoranda, notes, minutes, or the like were prepared in conjunction with the meetings referenced in answer to interrogatory 5(b). With respect to notes or communications prepared by representatives of the Department of Justice or the Nuclear Regulatory Commission, Tex-La is without knowledge of the preparation of any such documents by the government. The topics of conversation during these meetings are as outlined in response to interrogatory 5(b).

Interrogatory 5(e):

Identify any other document which relates to any such communication or series of communications, as well as any document provided to or obtained from the NRC Staff or the Antitrust Division

(state which) and produce each such document not already in the possession of TUGCO.

Answer:

There are none.

Interrogatory 6(a):

Has Tex-La or any of its member cooperatives or successors of either intervened as a party (or parties) in any proceeding (or with regard to any request to institute a proceeding) before FERC under amendments to Part 2 of the Federal Power Act made by the Public Utilities Regulatory Policy Act of 1978 (PURPA), or otherwise, relating to any request for relief from any order of any agency of the State of Texas, for interconnection or wheeling, or any or all of the foregoing?

Answer:

Yes - Northeast Texas Electric Cooperative, Inc., a newly formed generating and transmission cooperative organization organized under and pursuant to the Texas Electric Cooperative Corporation Act, has intervened in the Central Power and Light Company Public Service Company of Oklahoma, Southwestern Electric Power Company, and West Texas Utilities Company's application to the FERC for an interconnection pursuant to section 205 of the Public Utilities Regulatory Policy Act of 1978 (16 U.S.C. §825a-1). (Docket No. EL⁷³-8). A copy of the Petition to Intervene is annexed hereto as Attachment D.

Interrogatory 6(b):

Does Tex-La or any of its member cooperatives or successors of either expect to institute such a proceeding before FERC at any time in the next ten years?

Answer:

This question is so highly speculative as to be incapable of answering.

Interrogatory 6(c):

If the answer to (a) or (b) is affirmative, would such request, if granted, involve or potentially involve use, by or for Tex-La or any member or successor, of the transmission system of (i) any of the operating subsidiaries of Texas Utilities Company (i.e., DP&L, TP&L, or TESCO) or (ii) of any system which is a member of TIS?

Answer:

See answers to interrogatory 6(a) and (b). Again, this question is so highly speculative as to be incapable of a response.

Interrogatory 6(d):

If so, identify each system which would be involved, and describe the transactions for which use or access would be required, including the nature of the service, approximate duration, and the transmission and/or interconnection configuration and capacity contemplated. Produce any maps, diagrams or other documents relating to this subparagraph.

Answer:

See answer to interrogatory 6(a), (b), and (c).

Interrogatory 6(e):

If the answer to 6(a) or (b) and (c) are in the affirmative, state briefly whether Tex-La believes that there is any relief to which it might be entitled in the Comanche Peak operating license antitrust proceeding which is not also available under PURPA and the Federal Power Act, as amended.

Answer:

Tex-La objects to the form of this question on the basis that it calls for a legal conclusion.

Interrogatory 6(f):

If your answer to 6(e) is in the affirmative, state briefly why.

Answer:

See answer to interrogatory 6(e).

Interrogatory 7(a):

State whether Tex-La believes that it is now or may be in the future (and if so when in the future) in competition with DP&L, TP&L, or TESCO (state which).

Answer:

Tex-La members are presently in competition with Texas Power & Light Company.

Interrogatory 7(b):

If the response to subpart (a) is in any respect in the affirmative, state briefly the product and geographic market or markets involved, and generally the nature and extent of competition claimed.

Answer:

The cooperatives in east Texas which have collectively been known as Tex-La, have recently formed three generating and transmission cooperative corporations pursuant to the Texas Electric Cooperative Corporation Act of the State of Texas. Although these cooperatives currently have no generating capacity of their own, negotiations are currently ongoing between Southwestern Electric Power Company and Gulf States Utilities for possible joint construction and ownership of generating stations. These three generation and transmission cooperatives (Northeast Texas Electric Cooperative, Inc.; Tex-La Electric Cooperative of Texas, Inc.; and Sam Rayburn G&T, Inc.) have as their primary goals the lowering of costs for power, better efficiency, and improved reliability on all of their electric utility systems.

At some point in the future, it is possible these newly formed G&T's will organize on a federated basis much like the G&T's in Missouri and Georgia in order to coordinate and consolidate their bulk power supply needs.

Texas Power & Light and the Tex-La members are also in competition for retail customers. This is true both with respect to service areas in general and dually certified service areas.

Interrogatory 7(c):

Identify and produce all documents relating to this interrogatory.

Answer:

Tex-La is aware of no documents relating to this interrogatory which TUGCO does not have ready access to or already have in its possession.

Interrogatory 8:

Reference is made to Tex-La's petition to intervene. Reference is also made to the existing conditions in the Comanche Peak construction permits.

(a) In what respects specifically does Tex-La contend such conditions should be modified in order to afford relief to which Tex-La asserts it is entitled?

Answer:

See letter from Fred Ritts, attorney for Tex-La, to Michael B. Blume, attorney, Nuclear Regulatory Commission, dated July 16, 1979. (Annexed hereto as Attachment E.)

(b) Identify and produce all documents relating to (a).

Answer:

See answer to interrogatory 8(a).

Interrogatory 9(a):

Please describe generally how Tex-La anticipates that its members will be constituted or configured over the next thirty-fourty years (the approximate duration of the Comanche Peak license) and state how, if at all, such is different from the situation prevailing at the time your petition to intervene herein was filed. (Reference is made, inter alia, to Tex-La's answer to TUGCO's motion to dismiss CSW, et al. and for other relief, wherein mention is made of formation of three G&T cooperatives.)

Answer:

See answer to interrogatory 7(b).

Interrogatory 9(b):

Explain generally how such configuration and expected future pattern of operations bears on the relief sought and Tex-La's theory of this case, including how such have changed, if at all, since the petition to intervene was filed.

Answer:

With respect to the configuration and expected future patterns of operation of Tex-La, see answer to interrogatory 7(b). The relief sought by Tex-La in its petition to intervene is unchanged. (See also, Attachment E.)

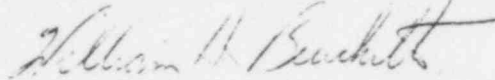
Interrogatory 9(c):

Identify and produce all maps, diagrams, or other documents relating to this interrogatory.

Answer:

There are none.

Respectfully submitted,



Law Offices of Northcutt Ely
by William H. Burchette

Watergate 600 Building
Washington, D.C. 20037
(202) 342-0800

Attorney for Tex-La Electric
Cooperative, Inc.

July 23, 1979

ROBERT M. GROSS, JR.

EDUCATION

Bachelor of Industrial Engineering, Georgia Institute of Technology.
Master of Business Administration - Finance, Georgia State University.

REGISTRATION

Georgia Professional Engineer Registration No. 9406

MEMBERSHIP

American Institute of Industrial Engineers

EXPERIENCE

Lockheed Georgia Company (1965-1968)--Industrial Engineer

Southern Engineering Company of Georgia, Atlanta, Georgia (1968-Present)--
Duties as follows: Supervised or prepared Retail Rate Studies for over 100 electric systems in 15 states.

Responsible for preparation of Cost of Service Studies, wholesale Rate Negotiations and Wholesale and Retail Rate Cases before various state regulatory bodies and the Federal Energy Regulatory Commission.

Supervised the preparation of various financial documents, merger studies, rate of return studies and financial analyses of both private and publicly owned Electric Utilities.

Testified as a rate expert and cost of service witness before state regulatory commissions in Virginia, North Carolina, Vermont, Indiana, Kentucky and Michigan, before the State District Courts in Florida and Mississippi and before the Federal Energy Regulatory Commission in numerous wholesale rate proceedings involving major investor-owned utilities selling at wholesale.

Project Engineer for engagements associated with Joint Participation Generation and Transmission Projects for public power clients in Texas, Louisiana, Georgia, and Delaware. Responsible for all Company related services from Feasibility Study Development to Project Participation Contract Negotiations.

POOR ORIGINAL

O. FRANKLIN ROGERS

EDUCATION

Bachelor of Industrial Engineering from the Georgia Institute of Technology, Atlanta, Georgia, with two years of undergraduate work at Georgia Tech, with two prior years at Emory University. Emory University Law School; academically qualified to become a member of the Georgia Bar (no plans to become a member or to practice law).

REGISTRATION

Registered Professional Engineer in Georgia. Prior to becoming registered, certified as qualified to take the examination in both Industrial and Electrical Engineering.

EXPERIENCE

while in College and while employee of State Highway Dept. (1950-1955)--
General surveying and subdivision layout, highway routing and planning.

U. S. Navy - Officer - 1955-1958

Southern Engineering Company of Georgia, Atlanta, Georgia (1958-1977)--
A member of the firm of Southern Engineering Company and Head of the Power Supply and Rate Department. Financial analyses and rate studies for operating utilities (over seventy-five rate studies). Power supply studies involving analysis of separate sources of supply. Wholesale power contract analysis and negotiations in nineteen states. Rate and cost review of utility operations for Commission proceedings including preparation of exhibits and/or testimony before various State Commissions, the Federal Power Commission, and the Atomic Safety and Licensing Board of the United States Atomic Energy Commission. Testified before these Federal Commissions on over twenty occasions. Negotiated wholesale power supply contracts with more than thirty power companies.

Filed comments concerning rulemaking changes by the Federal Power Commission on behalf of the American Public Power Association, the National Rural Electric Cooperative Association and over twenty cooperative and municipal groups. Four of the most recent filings concerned fuel adjustment clauses in wholesale electric rate schedules, fixed rate contract provisions in initial and superseding electric rate schedules, the inclusion of construction work in progress in rate base, and the determination of the rate for computing the allowance for funds used during construction.

Southern Engineering Company of Georgia, Atlanta, Georgia - (1977-Present)--
Executive Vice President, Southern Engineering Company of Georgia

POOR ORIGINAL

DAVID A. SPRINGS

EDUCATION

Bachelor of Electrical Engineering and Master of Science in Electrical Engineering from the Georgia Institute of Technology, Atlanta, Georgia

REGISTRATION

NCEE - No. 4207
Georgia - No. 5341
South Carolina - No. 7141
Kentucky - No. 10736
Oklahoma - No. 10785
Ohio - No. E-041824
Kansas - No. 6649
Nebraska - No. E-4320
Wisconsin - No. E-17660

MEMBERSHIP

Associate Member IEEE, GSPE, NSPE, AIEE, Tau Beta Pi; Eta Kappa Nu

EXPERIENCE

U.S. Army - 1943-1946

Georgia Institute of Technology, Atlanta, Georgia (1948-1949) --
Assistant operator of Georgia Tech A.C. Network Calculator (during graduate studies)

Southern Engineering Company of Georgia, Atlanta, Georgia (1949-1952) --
Engineer with Company working in general distribution system design and preliminary transmission system design. Distribution work included voltage regulation studies, sectionalizing studies, and cost of feasibility studies. Transmission work included A.C. Network Calculator studies of system configuration and capability and preliminary design of transmission lines and substations with cost estimates.

South Carolina Public Service Authority, Moncks Corner, S.C. (1952-1962) --
Wholesale Supervisor in Planning Section. Work included power contracts analyses and rate analyses; studies of present and projected future cost of utility operation to determine adequacy of applicable power rates; contract negotiations; economic analyses; and studies for coordinating steam and hydro generation. (1956-1962) Planning Engineer in charge of Planning Section, Engineering Department. In addition to the above, responsibilities included the necessary studies for recommendation of both annual and long-range additions to the Authority's system involving transmission lines, substations, capacitor banks, regulators, generating stations, and associated equipment. Also made recommendations to transmission and production departments on current operating practices.

POOR ORIGINAL

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DAVID A. SPRINGS (Continued)

South Carolina Public Service Authority, Moncks Corner, S.C. (1962-1963) --
Industrial Engineer in charge of Industrial Department with primary responsibility for the sale of wholesale customer relations.

Southern Engineering Company of Georgia, Atlanta, Georgia (1963-Present) --
In charge of Power Supply Planning and Power System Planning Section performing or supervising generation and transmission planning studies for the purpose of testing the feasibility of proposed systems and for the step-by-step system expansion of existing systems to meet load growth, also providing or supervising technical assistance in negotiating contracts regarding joint arrangements and coordination between clients and other power suppliers in the states of Maine, Vermont, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Oklahoma, Kansas, Illinois, Kentucky, Ohio; also providing expert testimony before the Federal Power Commission in Carolina Power & Light Company, FPC Docket No. E-7564; Georgia Power Company, FPC Docket No. E-7548, Florida Power Company, FPC Docket No. E-7720; Central Vermont Public Service Company, FPC Docket No. E-7685; and twice before the Public Service Board of the State of Vermont.

Southern Engineering Company of Georgia, Atlanta, Georgia (July 1976) --
Vice President

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Power & Light Company,)
Public Service Company of Oklahoma,)
Southwestern Electric Power Company,) Docket No. EL79-8
West Texas Utilities Company)

PETITION TO INTERVENE OF THE
NORTHEAST TEXAS ELECTRIC COOPERATIVE, INC.

The Northeast Texas Electric Cooperative, Inc. (hereinafter "Northeast" or "Petitioner") hereby petitions the Federal Energy Regulatory Commission (hereinafter "the Commission") for leave to intervene in the above-captioned proceeding.

All correspondence or communication relating to this proceeding should be sent to:

Frederick H. Ritts
William H. Burchette
Law Offices of Northcutt Ely
Watergate 600 Building
Washington, D.C. 20037

- and -

Mr. J.L. Johns
President
Northeast Texas Electric
Cooperative, Inc.
Post Office Box 70
Gilmer, Texas 75644

On February 9, 1979, Central Power & Light Company ("CP&L"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO"), and West Texas Utilities Company ("WTU") (collectively referred to as the "CSW Companies"), made application

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to the Commission seeking orders, pursuant to section 205 of the Public Utility Regulation Policy Act of 1978 (16 U.S.C. §825a-1), which would exempt CP&L and WTU from orders of the Public Utility Commission of Texas prohibiting the interstate transmission of electricity. The application further requests, pursuant to sections 202(b), 211, and 212 of the Federal Power Act, as amended (16 U.S.C. §§824(a)(b), 824(i), 824(j), and 824(k)), the Commission order, inter alia, interconnections of transmission facilities between Texas Electric Service Company, Houston Lighting & Power Company, and other members of the Electric Reliability Council of Texas, with the transmission facilities of CP&L and WTU. Of particular interest to Northeast, relief requested by the Application calls for physical interconnection of transmission facilities between Texas Electric Service Company and Texas Power & Light Company with the facilities of PSO and SWEPCO.

In support of its petition to intervene in this proceeding, Northeast respectfully shows as follows:

Northeast Electric Cooperative, Inc. is a newly formed generating and transmission cooperative corporation organized under, and pursuant to, the Texas Electric Cooperative Corporation Act of the State of Texas. 1/

1/ Members of the Northeast Cooperative have, in the past, been represented before this Commission, the Public Utility Commission of the State of Texas and in other regulatory and judicial proceedings by the Tex-La Electric Cooperative, Inc. The interests of the member cooperatives of Northeast in this proceeding, however, are separate and distinct from the interests of all of the individual member cooperatives of the Tex-La organization because the relief sought by the Applicant impacts directly on the members of the Northeast Cooperative. The members of the Northeast Cooperative, while seeking intervention in this proceeding in the name of Northeast, maintain their membership and active role in the Tex-La organization.

The Northeast Cooperative, through its members, 2/ purchases the majority of its power and energy requirements at wholesale from SWEPCO and the Southwestern Power Administration ("SWPA"). In addition to direct purchases from SWEPCO, Northeast, through contracts with SWPA and SWEPCO, purchases 117,000 Kw of hydro peaking power from SWPA which, in turn, is sold by Northeast to SWEPCO in return for firm power. Thus, any action taken by the Commission with respect to the Application of the CSW Companies directly affects the Petitioner's existing bulk power supply arrangements.

Although Northeast has no generating capacity of its own at the present time, negotiations are currently under way between SWEPCO and Northeast for possible joint construction and ownership of a coal-fired station. Any interconnections by SWEPCO to other systems may bear directly on the engineering requirements and overall economic viability of a new generation facility contemplated by SWEPCO and Northeast.

The interests which Northeast seeks to protect in this proceeding are significant and are of such a nature as not to be adequately represented by any of the existing parties to this proceeding. The opportunity for full presentation of its interests is essential to Northeast and in keeping with the Commission's mandate to protect the public interest.

2/ Three of the members purchase wholesale power from Texas Power & Light Company.

With respect to its position on the merits of the Application filed by the CSW Companies, Northeast supports the concept of interconnection and coordination among utility systems when such interconnections and coordination are predicated on sound engineering and economic principles. Interconnections which culminate in lower costs for power, better efficiency, and improved reliability, are supported by Northeast, be they interstate or intrastate connections. In the present case, due to Northeast's dependence on the SWEPCO system for its power and energy requirements, support of the proposed interconnections must be based on whether such interconnections are beneficial to SWEPCO and its system. Savings to SWEPCO as a result of eliminating duplicative transmission facilities, or improved reliability and economy obtained through emergency or economy interchanges with other bulk power suppliers, necessarily benefits Northeast and its customers. To the extent that the interconnections requested by the Applicant will serve to benefit SWEPCO, Northeast is supportive of the Application.

Based on the foregoing, Petitioner respectfully requests that it be allowed to intervene in this proceeding and to become a party hereto for all purposes. Further, Petitioner would request that the Commission grant to Northeast such further relief as may seem appropriate under the circumstances.

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William H. Burchette", with a long horizontal flourish extending to the right.

Law Offices of Northcutt Ely
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William H. Burchette
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(202) 337-0200

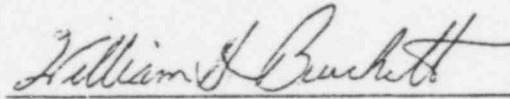
Attorneys for Northeast Electric
Cooperative, Inc., Petitioner

April 13, 1979

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by mail the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of §1.17 of the Rules of Practice and Procedure.

Dated at Washington, D.C., this 13th day of April 1979.

A handwritten signature in cursive script, reading "William H. Burchette", written over a horizontal line.

William H. Burchette

Attorney for Northeast Texas
Electric Cooperative, Inc.

LAW OFFICES
OF
NORTHCUTT ELY

WATERGATE SIX HUNDRED BUILDING

WASHINGTON, D. C. 20037

NORTHCUTT ELY
FREDERICK H. RITTS
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Attachment E, p. 1 of 8

TELEPHONE 202-342-0800
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July 16, 1979

Michael B. Blume, Esquire
United States Nuclear
Regulatory Commission
Washington, D.C. 20555

Dear Mr. Blume:

You have requested that Tex-La furnish you the principles which we desire to form the basis of new license conditions for Comanche Peak.

Bulk Power Supply Alternatives

The dually served cooperative members of Tex-La 1/ have physically split distribution systems, with some delivery points served by TP&L and other delivery points served by SWEPCO or GSU. 2/ For example, Deep East Texas Electric Cooperative has eight delivery points with TP&L and four delivery points with SWEPCO, and approximately 80 percent of Deep East's power requirements are served by TP&L and 20 percent by SWEPCO. Deep East's delivery points with TP&L cannot be severed and then reoriented to be SWEPCO delivery points unless the cooperative constructs costly new transmission and distribution facilities. As a result, the delivery points served by TP&L always must remain TP&L delivery points. Thus, the

1/ These cooperatives are: Deep East Texas Electric Cooperative, Houston County Electric Cooperative, Jasper-Newton Electric Cooperative, Rusk County Electric Cooperative, Sam Houston Electric Cooperative, and Wood County Electric Cooperative.

2/ Cherokee County Electric Cooperative is partially served by Southwestern Electric Service Company, which is in turn served by TP&L.

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only power suppliers to those delivery points can be TP&L or utilities which are interconnected with TP&L. This is no alternative because utilities in Texas have service areas which are approved by the Public Utility Commission, and therefore there is little chance that Deep East could purchase power from Houston Lighting & Power, Brazos, or TMPA. As a practical matter, therefore, Deep East's TP&L delivery points can be considered as captive and the only practical alternative to wholesale power supply from TP&L, at a cost lower than TP&L's wholesale rates, is through (1) the duplication of transmission and distribution facilities required to change from TP&L-supplied service, or (2) the ownership-participation in Comanche Peak and other generating resources planned by TP&L.

In order for a cooperative to borrow money to finance ownership in a generating plant, the cooperative must be able to show its customers and the lender that the proposed project has economic feasibility (i.e., that the cost of electric power through ownership will be lower than the cost of power through continuing to be a full requirements wholesale power customer). The cornerstone of this economic feasibility is that a cooperative is non-profit and has access to lower cost capital than its power supplier; for example, a cooperative such as Deep East can finance its share of Comanche Peak with approximately 9 percent money while TP&L's share of the same plant would require 10.5 percent money.

Recognition of the Cooperatives' Status as Compared to
Utilities in Texas

This initial basis of economic feasibility can be defeated easily by means of contractual arrangements with the major project owner (here TP&L). To take two extreme examples: (i) If TP&L required Tex-La to pay for standby capacity at a rate based on the

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highest cost unit owned by TP&L, economic feasibility would be reduced; (ii) if TP&L's transmission service rate were based on incremental costs, Tex-La could not afford to have power wheeled.

The cooperatives' ownership of a portion of the Comanche Peak unit must be integrated with other power supply resources in order to realize an economically viable bulk power supply system. Since the cooperatives do not possess these required power supply resources at this time, and since TP&L is the only practical alternative available to them for the supply of these resources, then the license condition should contain a requirement placed upon TP&L to provide such services, i.e., backup energy, standby capacity, and supplemental power. These services should be available at the option of Tex-La with reasonable notice to TP&L and should be provided by TP&L as a firm wholesale service, the same as for any other firm customer service of TP&L based upon appropriately allocated costs in accordance with rate schedules filed with either the Federal Energy Regulatory Commission or the Texas Public Utility Commission, whichever is appropriate.

Some utility companies have a quick answer to the above principles: "We will treat the cooperatives the same as we treat neighboring utilities, no better and no worse." This is a simplistic and deceiving response. Distribution entities like Tex-La's members cannot possibly be treated by TP&L in the same manner that TP&L treats neighboring interconnected utilities such as TESCO, HL&P, Brazos, TMPA, and Dallas Power & Light.

The following clarifies the reasons why Tex-La cannot be "treated just like the others."

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- (a) The above utilities are independent, fully integrated operations which have load control responsibility for their respective systems.
- (b) Tex-La is not an independent generating utility system with generating resources, nor does it have load control responsibility.
- (c) Tex-La is a firm wholesale customer while other utilities interconnected with TP&L are not.
- (d) Only a small part of Tex-La's load will be met from its own generation from jointly owned plants, and thus it will continue to purchase significant portions of its power from TP&L at wholesale.
- (e) Tex-La has no integrated transmission system. The other utilities do.
- (f) Since Tex-La is presently a full requirements customer, TP&L has had in the past, and will have in the future, load responsibility to plan for Tex-La's power needs even though Tex-La may participate in Comanche Peak.
- (g) Ultimately Tex-La remains fully dependent on TP&L to supply its load, just as any other firm wholesale customer. Tex-La merely supplies capital to help finance system generation additions. Thus, Tex-La's ownership in these facilities will not cause any change whatsoever in the manner in which TP&L operates the system. Nor does ownership by Tex-La place any new risk on TP&L.

We submit that these are compelling distinctions. To ignore these distinctions would mean discrimination against Tex-La because

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to equate Tex-La with the others' systems means that a small ownership share of the Comanche Peak resource is supposed to be equivalent to the multiple generating resources of HL&P, TESCO, DP&L, Brazos, and TP&L. Such a comparison is simply not realistic.

Principles for License Conditions

In general, the relevant contractual features (and license conditions) which are needed to obtain and maintain economic feasibility are as follows:

1. Ownership-Participation Contract

This contract, although lengthy and seemingly complex, really is rather basic. It typically provides that all co-owners share equally in all costs, expenses, and benefits. Economic feasibility can be ruined, however, if the junior co-owners must pay a premium for the project's fuel, while the project manager has lower cost fuel, even though the source is the same. Feasibility also can be destroyed unless all co-owners are entitled to receive their share of a jointly owned unit's output at all times when the project is operating. In general, the Comanche Peak ownership contracts appear to be fair although we are reviewing the fuel sharing and fuel cost terms.

2. Power Supply Contract

A. Supplemental Power: When a cooperative undertakes the risk 3/ of buying into a new unit, it purchases a share which is large enough to meet only a small portion of its total needs. 4/

3/ Transition from a distribution-only entity to a generation and transmission entity creates new problems and risks.

4/ As a full requirements wholesale customer, a cooperative's wholesale rate from the supplier is based on average system costs--a blend of a company's oldest, low cost plant with its newest, high cost plant. A cooperative loses economic feasibility if it purchases a large share in the new and highest cost plant.

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Thus it must purchase the remainder of its power requirements (known as supplemental power) at the supplier's system-wide wholesale rates. In other words, a company cannot charge a higher rate for supplemental wholesale power to a co-owner than it sells to a non-co-owner wholesale customer. The obligation to serve the supplemental power load must be firm, not on an "as available" basis. This firm obligation is the same obligation a supplier has to its full requirements wholesale customers.

B. Standby Capacity: The cooperative co-owners must be entitled to purchase standby capacity from TP&L at reasonable rates, to back up the cooperative's share of a jointly owned plant. The cooperative should not be required by TP&L to maintain a greater reserve percentage level than the reserve percentage level planned by TP&L. The cooperative should not be required to provide reserves on that portion of its load which is met through firm wholesale purchases.

C. Backup Energy: When a jointly owned unit is out of service for scheduled or non-scheduled outage, TP&L must furnish backup energy at a price no higher than TP&L charges its other customers. For example, if a unit is out of service and TP&L purchases equal amounts of energy from TESCO (at 30 mills) and Dallas Power & Light (at 60 mills), the charge to Tex-La should be the average (45 mills) and not the maximum (60 mills). If Tex-La did not own a joint unit and remained a full requirements wholesale customer, it would receive the same energy at 45 mills.

The furnishing of backup energy by TP&L to Tex-La must be a firm obligation; if the unit were down, and Tex-La were not a co-owner, TP&L would have a firm obligation to supply replacement energy. The obligation must be the same when Tex-La is a co-owner of a small portion of a unit.

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D. Sellback of Excess Capacity: Because of the high capacity costs of a new project, Tex-La is limited economically in its ability to retain more than its normal load ratio share of a project's capacity. In many existing arrangements (e.g., Hatch, Marble Hill, Fermi) involving a large power company and a small cooperative joint owner, the cooperative sells back to the major owners some excess capacity and energy for a few years, on a take or pay basis, and at a price which reflects the savings gained from the cooperative's lower cost capital. Each month TP&L would purchase from Tex-La that portion of Tex-La's unit capacity which Tex-La did not retain for its own use (Sell-Back Capacity). TP&L would pay Tex-La for Sell-Back Capacity at a rate designed to share, equally between Tex-La and TP&L, the dollar-per-kilowatt savings made available through Tex-La's financing and non-profit operation associated with its interest in the project. In short, the sell-back price is based on an average of the cooperatives' capital costs and a company's capital costs.

3. Transmission Service Contracts

When a cooperative jointly owns a unit, it typically only owns the generating plant and not the transmission facilities running from the unit to the service area. Thus, the major co-owner must have the firm obligation 5/ to transmit the cooperative's power from the unit to the cooperative's service area. That obligation must be just as if the cooperative did not own a portion of the unit and instead remained a wholesale customer receiving power from all of the company's generating resources.

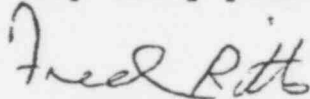
5/ The obligation cannot be on an "as available" basis, or "excess capacity" basis, or "best efforts" basis.

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The transmission rate must be devised in the same manner as the transmission component of the wholesale rates. Thus if the transmission component of the wholesale rate to a non-co-owner is based on average embedded system costs, the transmission rate to a co-owner must be based on the same method.

The above principles represent means for cooperatives to have access to alternative power supplies through co-ownership. The license conditions should be drafted to reflect the principles which make co-ownership possible.

Very truly yours,



Frederick H. Ritts

FHR:dsf

Copy to Judy Harris, Esquire

Mr. Fred S. Buchanan (Cherokee County Electric Cooperative)
Mr. Homer Murray (Deep East Texas Electric Cooperative)
Mr. W.H. Holcomb (Houston County Electric Cooperative)
Mr. Carl Morgan (Jasper-Newton Electric Cooperative)
Mr. Carl Messec (Rusk County Electric Cooperative)
Mr. Milton T. Potts (Sam Houston Electric Cooperative)
Mr. Juan D. Nichols (President, Tex-La of Texas)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Response of Tex-La Electric Cooperative, Inc. to First Set of Interrogatories and Requests for Production of Documents From Texas Utilities Generating Company" has been served on each of the following persons by deposit in the United States mail, first class, postage prepaid, this 24th day of July 1979.

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Washington, D.C. 20555

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