

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
TEXAS UTILITIES GENERATING)	Docket Nos. 50-445
COMPANY, <u>et al.</u>)	50-446
)	
(Comanche Peak Steam Electric)	
Station, Units 1 and 2))	

APPLICATION FOR AMENDMENT OF CONSTRUCTION
PERMITS TO REFLECT CORPORATE REORGANIZATION

Texas Utilities Generating Company (TUGCO) is presently the holder of NRC Construction Permits Nos. CPPR-126 and CPPR-127 for the Comanche Peak Steam Electric Station, Units 1 and 2 (CPSES). The construction permits reflect the ownership interests of the co-permittees, Dallas Power & Light Company (DP&L), Texas Power & Light Company (TP&L), Texas Electric Service Company (TESCO), Texas Municipal Power Agency (TMPA), Brazos Electric Power Cooperative (BEPC), and Tex-La Electric Cooperative of Texas, Inc. (Tex-La), as follows:

TESCO	35 5/6%
TP&L	33 2/3%
DP&L	18 1/3%
TMPA	6 1/5%
BEPC	3 4/5%
Tex-La	2 1/6%

TESCO, TP&L, DP&L and TUGCO are wholly owned subsidiaries of Texas Utilities Company (TUCO). The present corporate structure of TUCO is depicted on Attachment 1 to this Application.

In May, 1982, the Board of Directors of TUCO approved a reorganization of several of its subsidiaries through the formation of a new corporate entity which has been established and named Texas Utilities Electric Company (TUEC). The reorganization is to be effected through a statutory consolidation of TESCO, TP&L, and DP&L. Further, plant operation functions and personnel of TUGCO and plant engineering functions and personnel of Texas Utilities Services Inc. (TUSI) will be transferred to TUEC. The reorganization is depicted on Attachment 2 to this Application. All necessary approvals have been obtained for the consolidation of electric utility operations into one entity. On December 22, 1982, the Public Utility Commission of Texas, following a comprehensive hearing, approved the reorganization and found it to be in the public interest. A copy of the Final Order of the PUC is attached hereto as Attachment 3. Furthermore, all necessary stockholder approvals have been obtained.

The corporate reorganization will not affect the present staffing or corporate channels of responsibility for CPSES. For example, the President of TUGCO will remain as the corporate officer with direct management and oversight responsibility for CPSES as the chief officer of the generating division of TUEC. The Executive Vice President of TUGCO and the Vice President, Nuclear, of TUGCO both will assume comparable positions for operation of CPSES within the generating division of TUEC. The Manager, Nuclear Operations and the Manager, Plant Operations (CPSES) will perform the same functions for the generating division of TUEC as they now perform for TUGCO. TUEC will retain responsibility for the design, construction, operation and maintenance of CPSES through its generating division, and will act as agent for all owners in connection with all aspects of NRC licensing and regulation.

The reorganization will become effective on January 1, 1984. Accordingly, as agent for these co-owners, TUGCO respectfully requests by this Application that the NRC amend Construction Permit Nos.

CPPR-126 and CPPR-127, as necessary, to reflect an internal reorganization of TUCO to be effected on that date.

Pertinent additional information required under 10 C.F.R. 50.33 is set forth below.

1. General Information

a. Name and Address of Licensee

Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

b. Description of Licensee

The structure of the Texas Utilities Company, as it will be reorganized on January 1, 1984, is shown in Attachment 2. The reorganization will merge the traditional electric utility functions of the TUCO subsidiaries into a single corporate entity named Texas Utilities Electric Company. TESCO, TP&L and DP&L, the present operating companies, will be retained as divisions of TUEC. In addition, the power plant operations, engineering, and related activities of TUGCO, TUSI and the operating companies will be combined into a fourth division of TUEC. This division will be responsible for the engineering, construction and operation of all Texas Utilities Electric Company generation, including CPSES.

The corporate reorganization was approved and found to be in the public interest by Final Order of the Public Utility Commission of Texas, dated December 22, 1982. A copy of that Final Order is included herewith as Attachment 3. Necessary stockholder approvals have been obtained. The reorganization will become effective on January 1, 1984.

Effective with the reorganization, and as a matter of Texas law, all rights and obligations of DP&L, TESCO and TP&L will become the rights and obligations of the successor corporation, TUEC. Thus, ownership shares (with appropriate entitlement to output), when the reorganization becomes effective, will be as follows:

TUEC	87 5/6%
TMPA	6 1/5%
BEPC	3 4/5%
Tex-La	2 1/6%

c. Names of Officers and Directors

The names and business addresses of the principal officers and directors of Texas Utilities Electric Company, all of who are citizens of the United States, as as follows:

Principal officers:

J. S. Farrington
Chairman
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

E. A. Nye
Executive Vice President
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

S. S. Swiger
Controller
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

P. B. Tinkham
Secretary
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

Directors:

P. G. Brittain
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

B. B. Hulsey, Jr.
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

J. S. Farrington
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

E. A. Nye
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

M. D. Spence
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

W. W. Aston
Texas Utilities Electric Company
1506 Commerce Street
Dallas, Texas 75201

W. G. Marquardt
Texas Utilities Electric Company
P. O. Box 970
Fort Worth, Texas 76101

R. K. Campbell
Texas Utilities Electric Company
1151 Bryan Street
Dallas, Texas 75266

d. Foreign Ownership or Control

Texas Utilities Electric Company will not be owned, controlled or dominated by an alien, or foreign corporation or a foreign government.

2. Financial Qualifications

Upon reorganization, the divisions of Texas Utilities Electric Company will continue to perform the electric utility functions of DP&L, TESCO and TP&L. TUEC will file rate cases with the Public Utility Commission of Texas to recover the costs of the generation of electricity. See Texas PUC Final Order (Attachment 3). Thus, TUEC will be an electric utility as defined in 10 C.F.R. 50.2(x), and information to demonstrate the financial qualifications of the company need not be provided. 10 C.F.R. 50.33 (f).

3. Agreement Regarding Classified Information

This application does not involve Restricted Data or other defense information. If it is found to involve such information, TUEC agrees that it will not permit any individual to have access to such information until the appropriate federal government agencies have made an investigation and a report to the NRC on the character, associations and loyalty of such individuals, and the NRC has determined that permitting such person to have access to the information will not endanger the common defense and security.

4. Request to Dispense With Advance Notice

The requested amendment of the construction permits involves no significant hazards considerations. It is thus requested that the NRC dispense with advance notice and publication of the amendments as permitted under Section 189(a) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2239(a).

5. Communications

The Texas Utilities Electric Company will be solely responsible for communications with the NRC relating to CPSES following the reorganization. Accordingly, after January 1, 1984, all NRC communications pertaining to these permits should be sent to:

R. J. Gary
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

In addition, it is requested that copies of each such communication be sent to:

Homer C. Schmidt
Manager, Nuclear Services
Texas Utilities Electric Company
2001 Bryan Tower
Dallas, Texas 75201

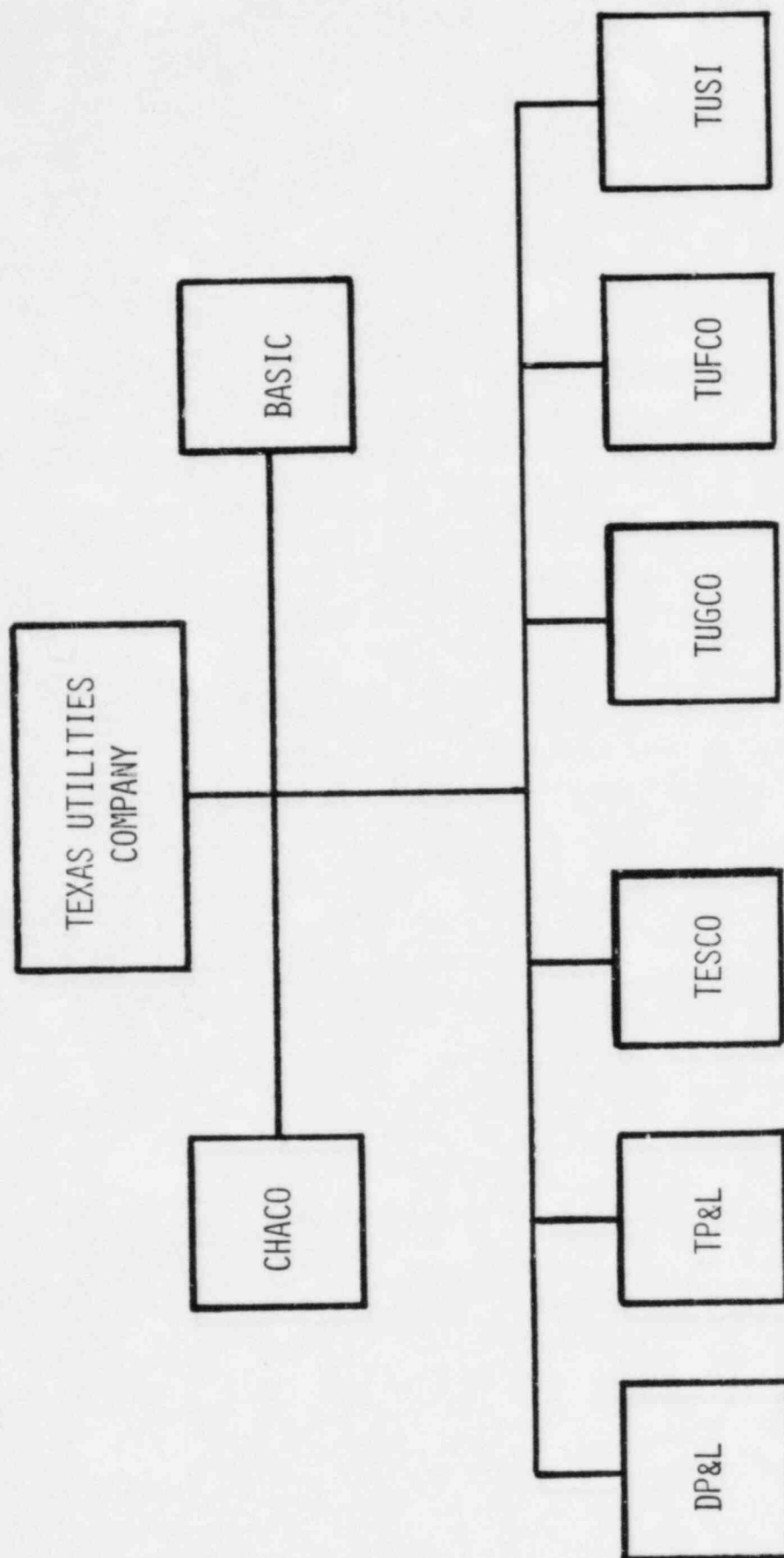
William A. Burchette, Esquire
Law Office of Northcutt Ely
Watergate 600 Building
Washington, D.C. 20037

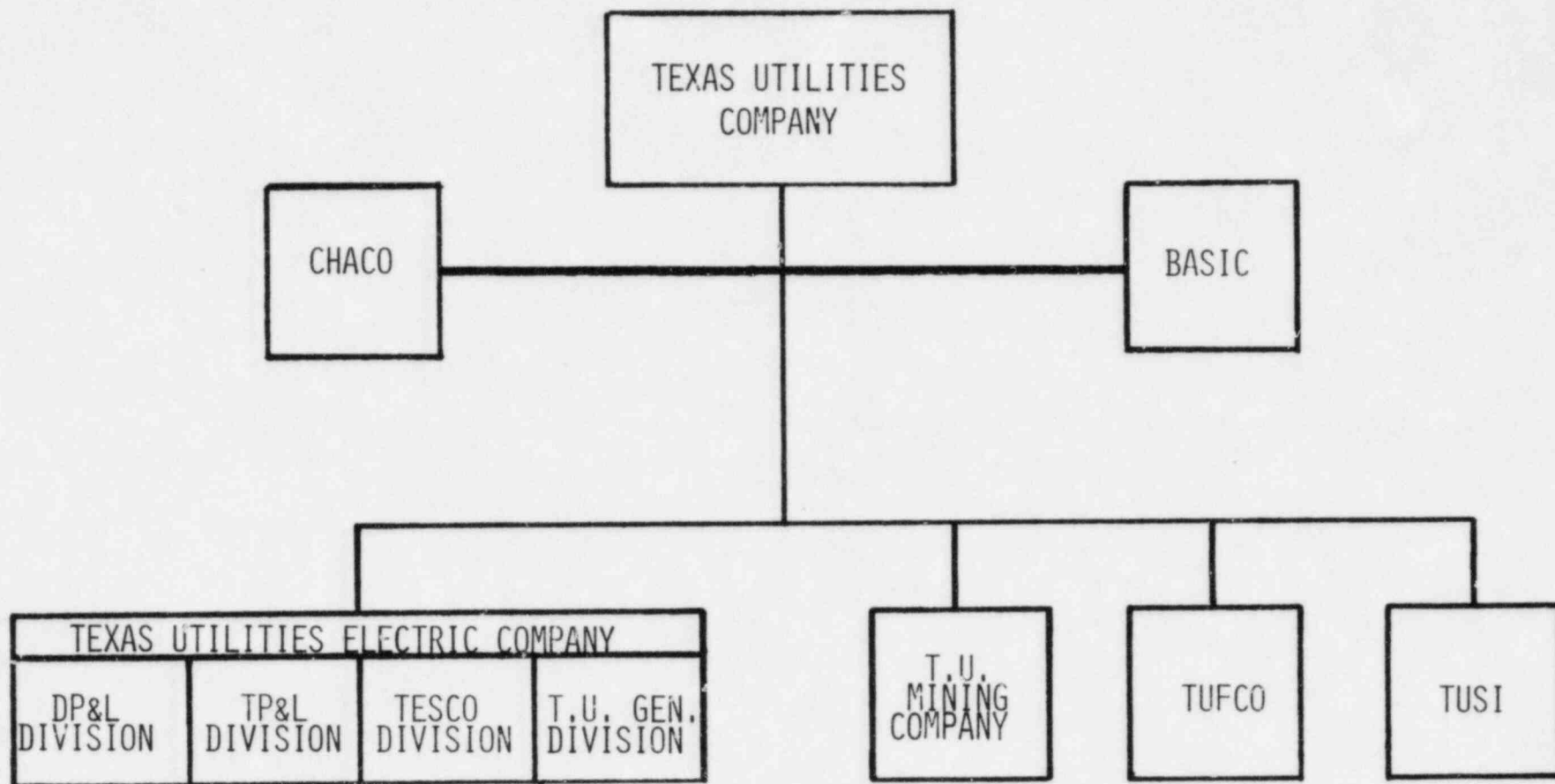
and to Texas Utilities Electric Company counsel:

Spencer C. Relyea, Esquire
Worsham, Forsythe & Sampels
2001 Bryan Tower
Dallas, Texas 75201

Nicholas S. Reynolds, Esquire
Debevoise & Liberman
1200 Seventeenth Street, N.W.
Washington, D.C. 20036

Until January 1, 1984, all NRC communications regarding these permits and the requested amendment shall be sent to those individuals already designated in the construction permits, as amended.





APPLICATIONS OF DALLAS POWER AND LIGHT
COMPANY, TEXAS POWER AND LIGHT COMPANY,
AND TEXAS ELECTRIC SERVICE COMPANY FOR
CORPORATE REORGANIZATION

PUBLIC UTILITY COMMISSION
OF TEXAS

FINAL ORDER

I. Procedural History

On September 7, 1982, the applicant corporations Dallas Power & Light Company (DPL), Texas Electric Service Company (TESCO), and Texas Power & Light Company (TPL), each of them a subsidiary of Texas Utilities Company, filed with this Commission a report describing a proposed corporate reorganization and requesting that the Public Utility Commission find this proposed reorganization to be in the public interest.

The proposed reorganization would cause a merger of the three applicants into a new corporation to be designated Texas Utilities Electric Company (TUEC). In this reorganization the power plant operations of the applicant companies and of Texas Utilities Generating Company (TUGCO) together with certain accounting, engineering, construction and procurement functions of Texas Utilities Services, Inc. (TUSI) would be combined into a division of TUEC to be named Texas Utilities Generating Division. (TUGCO and TUSI are also subsidiaries of Texas Utilities Company.)

The electric utility functions of the three applicant companies, except for power plant engineering, construction and operations, would be continued under their present names to serve their present operating areas as divisions of TUEC.

On October 7, 1982, a prehearing conference was held in this docket with Examiner Jacqueline S. Holmes presiding. Motions to intervene were granted to Southwestern Electric Service Company (Frank Cain, attorney), TESCO Cooperatives (Cap Rock Electric Cooperative, Inc., Lone Wolf Electric Cooperative, Inc., Lyntegar Electric Cooperative, Inc., Midwest Electric Cooperative, Inc., and Taylor Electric Cooperative, Inc., Earnest Casstevens, attorney), the City of Dallas (Galen Sparks, attorney), the Cities of Haltom City, Richland Hills, North Richland Hills, and Lake Worth (Rex McEntire, attorney), the City of Andrews (Don Butler, attorney), Tex-La Electric Cooperative of Texas, Inc. (William Burchette, attorney), Texas-New Mexico Power Company (Michael Shirley, attorney). The Public Utility Commission staff was represented by General Counsel Allen King. The Applicants were represented by Robert Wooldridge and Dan Bohannon. Protests were received from the City of Mineral Wells and the City of McClendon-Chisholm.

A hearing on the merits was conducted before the Commission on November 17, 1982 at 10:00 a.m. At the hearing on the merits the Texas Municipal League (Don Butler, attorney) was admitted as an additional intervenor.

II. Jurisdiction

The Public Utility Commission has jurisdiction to consider the report of the applicants of a proposed merger of utilities and to make a determination whether the action is consistent with the public interest under Sec. 63 of the Public Utility Regulatory Act of Texas, TEX.REV.CIV.STAT.ANN. art. 1446c(1980).

III. Discussion

At the hearing on the merits, the applicants presented two witnesses, each of whom had prefiled testimony: Mr. Perry Brittain, President of Texas Utilities Company, and Mr. Erle Nye, Executive Vice President of Texas Utilities Company. Each witness was cross-examined by the intervenors and the staff, and was questioned for clarification of testimony by members of the Commission.

The City of Dallas presented prefiled testimony by Mr. Thomas James, Director of Public Utilities for the City of Dallas. This testimony was admitted without protest and Mr. James was not cross-examined by the parties.

No other witnesses were presented.

The parties were invited to file post hearing briefs and replies to briefs which the Commission has received.

ISSUES:

1. Demonstration of Benefit in the Public Interest

Witnesses for the applicants presented a general description with charts and diagrams depicting the proposed reorganization. In response to Requests for Information from the Tex-La Cooperatives, and in cross-examination, the applicant witnesses denied the existence of any detailed studies defining cost savings or employee reduction or any other written material supporting the general assertions of the two applicants that the proposed reorganization would produce material cost reduction.

The Commission finds it is left with these general assertions as its only support for approving the merger and declaring a finding that such a merger is in the public interest. A concise example of such assertions is quoted below from the Applicants' Reply to the Request for Information of Tex-La Electric Cooperatives of Texas, Inc. (P. 2, last paragraph).

Applicants expect that substantial cost savings will result to the benefit of the customers of all of the applicants. The proposed reorganization, when approved and implemented, will facilitate improved efficiency, avoid any unnecessary duplication of effort, improve managerial control and responsibility, and ultimately require fewer employees and facilities than would otherwise be necessary.

While all of these statements satisfy an intuitive feeling that consolidation of functions should result in reduced expenditures, the lack of specific estimates of savings or of detailed manning tables leaves this Commission with little factual data on which to base an opinion.

It is clear that corporations have a right to restructure their organizations for improved efficiency of operation and control, and in the absence of serious objection from any intervenor, there is no reason to find that the proposed reorganization is not in the public interest.

2. Filing of Rate Cases

The applicants' witness Erle Nye has proposed that each of the new electric utility operating divisions shall file separate rate case applications, continuing separate rate design patterns as are now the practice of the three operating corporations, rather than a single rate case for the consolidated company.

The applicant argues that there is substantial difference in the nature of the three divisions in terms of customer mix and in terms of rates.

Commission records do not support these assertions. The number of residential customers is 85.4% of TESCO total customers, 85.5% of TPL total customers and 87.5% of DPL total customers. Residential revenues as a percentage of total revenues is 35.8% for TESCO, 34.4% for TPL and 32.6% for DPL.

A review of residential rates for 1000 KWH for each month of the period June 1982-Nov. 1982 shows that of the three operating utilities DPL was lowest two months and highest three months, TESCO was lowest one month and highest two months and TPL was lowest three months and highest one month. It is apparent that although rate design is slightly different, there is no significant and persistent difference in the customer impact of the rates of the three utilities.

Although DPL does not have any transmission voltage customers or wholesale customers and the other two units do have these additional classes of customers, current rate design for all classes in each division produces relative rates of return for each class of approximately 1.0. The greatest discrepancies are 0.84 RROR for Large General Service customers of DPL and 1.08 RROR for transmission voltage customers of TPL. These classes represent only 3.0 percent and 5.9 percent respectively of the total revenues of these two operating utilities. It is apparent that a change to a single rate structure could be made with minimum customer impact.

The Commissioners questioned the witness Erle Nye about statutory authority for filing divisional rate cases, and the parties were invited to comment on this issue in the post-hearing briefs and reply briefs.

The applicants in their brief made three principal arguments based upon precedents of this Commission and of the Railroad Commission of Texas which is governed by the same statute in regard to retail gas rates.

1) Rate cases were filed by Community Public Service Company in Docket 3093 and Docket 3370 for rate increases by divisions. The applicants fail to note that these applications were accepted as transitional cases in concert with a mandate to file a company wide rate case, which has been filed and implemented (Docket 4240).

2) Several rate cases are cited for Gulf States Utility Company, Southwestern Public Service Company, Southwestern Electric Power Company and El Paso Electric Company, each of which operates in Texas and at least one other state, and therefore has operations not subject to the jurisdiction of the Texas Public Utility Commission. Also, in the instance of Southwestern Public Service Company several cases were filed in which rates had been set under original jurisdiction by cities, and those rates were not appealed by the utility, resulting in different rates for those localities.

Presently this Commission determines revenue requirements on a systemwide basis and then makes allocations of costs for determination of rates within jurisdictional boundaries. There is no such jurisdictional problem presented by the proposed three operating divisions of TUEC, and therefore no need for and no authority for different rate schedules.

3) The applicants argue that precedent set by the Railroad Commission of Texas in setting retail gas rates for localities or by division is applicable to Public Utility Commission rate procedures. There are substantial differences in that the Railroad Commission is dealing with distribution of gas purchased at explicit fixed rates at the division gate or city gate while in the instant case the Public Utility Commission would be setting rates for three operating divisions by allocations of investment and operating expenses of generating and transmission facilities operated for common use by a single generating division. The continued arbitrary allocations of interests among divisions would perpetuate after consolidation unnecessary costs associated with allocations of expenses.

The analogy to the Railroad Commission is not appropriate.

The applicants anticipate that all necessary corporate stockholder approval may be completed during calendar year 1983 and the probable effective date of the merger would be January 1, 1984.

During 1983 the present operating companies could file rate change requests with the objective of moving rate designs toward a common rate design. Following the effective date of the merger only a single rate case for TUEC should be filed.

Findings of Fact

1. On September 7, 1982, the applicant companies Dallas Power and Light Company, Texas Electric Service Company and Texas Power and Light Company filed with this Commission a proposal for merger of the three companies into a new entity Texas Utilities Electric Company (TUEC).
2. In the reorganization the power plant operations of the applicant companies and of Texas Utilities Generating Company together with accounting, engineering, construction, and procurement functions of Texas Utilities Services, Inc. would be combined into a division of TUEC to be named Texas Utilities Generating Division.
3. The electric utility functions of the three applicant companies, except for power plant engineering, construction and operations would be continued under their present names to serve their present operating areas as divisions of TUEC.
4. At a prehearing conference on October 7, 1982, the following intervenors were admitted: Southwestern Electric Service Company, TESCO Cooperatives (Cap Rock Electric Cooperative, Inc., Lone Wolf Electric Cooperative, Inc., Lyntegar Electric Cooperative, Inc., Midwest Electric Cooperative, Inc., and Taylor Electric Cooperative, Inc.), the City of Dallas, the Cities of Haltom City, Richland Hills, North Richland Hills, and Lake Worth, the City of Andrews, Tex-La Electric Cooperatives of Texas, Inc., and Texas-New Mexico Power Company. At the hearing on the merits November 17, 1982, Texas Municipal League was admitted as an intervenor.
5. Based upon the assertions of company witnesses that the merger will result in substantial cost savings, improved efficiency, and improved managerial control, and in the absence of any protest by the various intervenors, the Commission finds that the proposed merger is in the public interest.
6. The Commission finds that there is no statutory basis for filing of separate rate cases by the electric utility divisions of TUEC and the Commission finds that any rate case filed by the applicants subsequent to the effective date of the merger must be a single rate case filed by the surviving corporate entity Texas Electric Utilities Company.

Conclusions of Law

1. The Public Utility Commission has jurisdiction to consider the merger of utilities under its jurisdiction and to make a determination of whether such merger is in the public interest. (PURA Sec. 63.)
2. The Public Utility Regulatory Act requires that a utility may make changes in its rates by certain filing procedures prescribed in Sec. 43 PURA, but makes no provision for separate filings by operating divisions of the same utility.

IV. Order

In a public meeting at its offices in Austin, Texas the Public Utility Commission of Texas after finding that statutory notice was provided to the public and interested persons, and after public hearings on the application, issues the following Order:

1. The application of Dallas Power and Light Company, Texas Electric Service Company and Texas Power and Light Company to merge into Texas Utilities Electric Company is APPROVED and is found to be in the public interest.
2. Any rate case filing made after the effective date of the merger of these applicant corporations into Texas Utilities Electric Company shall be filed as a single rate case affecting all of the electric utility divisions of TUEC.
3. As a part of the first rate case filed by TUEC, the company shall prepare testimony which will demonstrate any actual savings or increased expense which may have resulted from the consolidation of the applicant companies into TUEC.

RENDERED AND SIGNED AT AUSTIN, TEXAS, on this the 22d day of December, 1982.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: H. M. Rollins
H. M. ROLLINS

SIGNED: G. M. Cowden
GEORGE M. COWDEN

SIGNED: T. G. Smith
T. G. SMITH

ATTEST:

Rhonda Colbert Ryan
RHONDA COLBERT RYAN
ACTING SECRETARY OF THE COMMISSION

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