

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )

HOUSTON LIGHTING AND POWER COMPANY, )

et al., )  
 (South Texas Project, Units )  
1 and 2) )

Docket Nos. 50-498A  
50-499A

TEXAS UTILITIES GENERATING CO., )

et al., )  
 (Comanche Peak Steam Electric )  
Station, Units 1 and 2) )

Docket Nos. 50-445A  
50-446ASTIPULATION TO PROTECTIVE ORDER

It is hereby stipulated by and among the Public Utilities Board of the City of Brownsville, Texas, the Department of Justice, the NRC Staff and Gulf States Utilities Company, by their respective counsel to this agreement, that an Order may be entered as follows:

WHEREAS, by subpoena of the Atomic Safety and Licensing Board ("Licensing Board") in these proceedings dated February 26, 1979, Gulf States Utilities Company ("Gulf States") was, at the request of Public Utilities Board of the City of Brownsville, Texas pursuant to 10 C.F.R. §2.720, commanded to make available for inspection and copying the documents described in the Schedule attached to said subpoena;

AND, WHEREAS it appears that Gulf States has good cause for the imposition of terms and conditions for compliance with said subpoena under 10 C.F.R. §§2.720(f) and 2.740(c) as set forth below;

IT IS HEREBY ORDERED THAT:

1. Gulf States shall immediately make available for inspection and copying all documents required for production pursuant to the aforementioned subpoena, subject to the terms and conditions below.

2. The parties shall reimburse Gulf States for its actual copying costs for each copy made at a party's request of a document produced in response to this subpoena.

3. As used herein, "confidential business information" is information which concerns and relates to the trade secrets or other confidential business plans, procedures, relationships or arrangements of any kind which, if disclosed, have the potential of causing harm to the competitive position of the person, firm, partnership, corporation or other organization from which the information was obtained and as to which that person, firm, partnership or corporation could claim confidential treatment. Such confidential information shall include, but not be limited to, data, information, or options furnished by third parties to Gulf States for the purpose of preparing and conducting joint studies of the feasibility of interconnection, the construction of jointly owned or utilized generation or transmission facilities; offers and responses with regard to

participation by Gulf States or a third party in the ownership, construction or operation of any electric power facility or portion thereof; and the terms and conditions of any contract currently under negotiation between Gulf States and any other party for the sale or supply of electric power (excluding documents covered by Paragraph 14 below).

4. Any documents produced in response to the subpoena of February 26, 1979, which are asserted by Gulf States to contain or constitute such confidential business information shall be so designated in writing and shall be segregated from other information being produced. Documents shall be clearly and prominently marked on their face with the legend: "GULF STATES CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER," or a comparable notice. As used herein, "document" shall include all contents of any portion of any document so designated. Only in camera disclosure of such documents shall be made at any hearing before the Nuclear Regulatory Commission ("Commission"), the Licensing Board or the officer presiding over the proceeding.

5. Confidential documents produced in accordance with the provisions of paragraph 4 above shall not be disclosed to any person other than: (i) counsel for parties to this proceeding, including necessary paralegal, secretarial and clerical personnel assisting such counsel; (ii) qualified persons taking testimony involving such documents or information and necessary stenographic and clerical personnel thereof; (iii) independent consultants and technical experts and their staff who are engaged directly in this litigation; (iv) the Commission, the Licensing Board, the presiding officer, or the Commission Staff.

6. Confidential business information submitted in accordance with the provisions of paragraph 4 above shall not be made available to any person designated in paragraph 5(i), (ii) and (iii) unless they shall have first read this Order and shall have agreed, in writing: (i) to be bound by the

the terms thereof; (ii) not to reveal such confidential business information to anyone other than another person designated in paragraph 5; and (iii) to utilize such confidential business information solely for purposes of this proceeding.

7. Upon a showing of good cause, this Protective Order may be amended by agreement, or if the Commission or the Licensing Board so orders, so that access to or dissemination of documents designated confidential shall be made to persons not included in paragraph 5 above. If so, such documents shall be accessible to or disseminated to such other persons only upon the conditions and obligations of this Order. Such persons shall agree in writing to be bound thereby prior to such access or dissemination. Upon the request of any party or by the Board upon its own motion, GSU shall make an appropriate showing of confidentiality for specific information or documents as to which it has claimed confidentiality. If the Board finds that GSU has failed to make such a showing, such information or documents shall not be treated as confidential under the terms of this Order.

8. Any confidential document shall be submitted to the Commission, Licensing Board or the presiding officer only in connection with a motion or other procedure within the purview of this proceeding, and shall be submitted under seal in the manner described in paragraph 4 above. Any portion of a transcript in connection with this proceeding containing any confidential document submitted pursuant to paragraph 4 above shall be bound separately and filed under seal. When any confidential documents submitted in accordance with paragraph 4 above is included in an authorized transcript of a deposition or exhibits thereto, arrangements shall be made with the court reporter taking the deposition to bind such confidential portions and separately label them "GULF STATES CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER." Before a court reporter receives or a witness examines any such document, he or she will have first read this Order and shall have agreed in writing to be bound by the terms thereof. Copies of each such signed agreement shall be provided to Gulf States.

9. Any document produced and designated as confidential pursuant to paragraph 4 above shall be subject to the provisions of 10 C.F.R. §2.790.



10. The Commission's Staff shall take all necessary and proper steps to preserve the confidentiality of, and protect Gulf States' rights with respect to, any confidential documents designated by Gulf States in accordance with paragraph 4 above, and shall notify Gulf States promptly with respect to any request by any person other than those listed in paragraph 5 above for access to such documents.

11. If confidential documents produced in accordance with paragraph 4 are disclosed to any person other than in the manner authorized by this Order, the person responsible for the disclosure shall immediately bring all pertinent facts relating to such disclosure to the attention of Gulf States and the presiding officer and make every effort to prevent further disclosure by him or by the person to whom the document was improperly disclosed.

12. Nothing in this Order shall abridge the right of any person to seek judicial review or to pursue other appropriate judicial action with respect to the matters contained herein.

13. Upon final termination of this proceeding, each person subject to this Order shall assemble and return to Gulf States all confidential documents as well as all other documents containing confidential business information produced in accordance with paragraph 4 above, including all copies of such matter which may have been made, but not including copies containing notes or other attorney's work product that may have been placed thereon by counsel for the receiving party. All copies containing notes or other attorney's work product shall be destroyed, and certification of same shall be made to Gulf States. Receipt of material returned to Gulf States shall be acknowledged in writing. This paragraph shall not apply to the Commission, the Board, the presiding officer and the Commission Staff, who shall retain such material pursuant to statutory requirements and for other recordkeeping purposes, but may destroy those additional copies in their possession which they regard as surplusage.

14. Gulf States shall produce all documents relating to its proposed participation agreement with the Sam Rayburn Dam Electric Cooperative, Inc. for the River Bend Nuclear Plant as follows: Insofar as such documents do not pertain to in-



house memoranda, reports, deliberations or considerations or state Gulf States' negotiating position, such documents shall be immediately produced and shall be disclosed only to counsel under the other applicable terms of this Order. Gulf States shall provide a summary of all other documents so as not to compromise its proprietary interests. If the parties are unable to reach agreement on the sufficiency of Gulf States' summary as an interim response, the documents shall be submitted to the Licensing Board for in camera inspection. If the Board determines that the inspected documents may be disclosed, such disclosure shall be to counsel in accordance with the other applicable terms and conditions of this Order, except that the Board may order that the documents be produced only in part with certain deletions to protect the confidentiality of proprietary interests. Upon completion of Gulf States' negotiations with Sam Rayburn Dam Electric Cooperative, Inc., or on July 30, 1979, whichever comes first, all documents withheld for an interim period in accordance with this paragraph shall be produced in Washington, D.C. in accordance with the other applicable terms and conditions of this Order.

15. Gulf States need not at this time produce any correspondence or communication between Gulf States and its counsel. Gulf States shall furnish a list of such documents, with a description of each, in accordance with the Instructions relating to claims of privilege in the subpoena served on Gulf States. If the privileged nature of a document is contested, the document shall be submitted to the Licensing Board for in camera inspection. If the Board determines that the inspected documents may be disclosed, the Board may order that the document be produced only in part or with certain deletions to protect attorney/client confidentiality; and if Gulf States asserts a separate claim of confidentiality, such disclosure shall be in accordance with the other applicable terms and conditions of this Order.

16. In accordance with the Board's verbal order of June 1, 1979 and its written order issued June 25, 1979 Gulf States need not produce any documents generated by it and other parties solely as part of negotiations to settle this proceeding.

DATE: July 16, 1979

Marc Pomeroy  
PUBLIC UTILITIES BOARD OF THE  
CITY OF BROWNSVILLE, TEXAS

DATED: July 18, 1979

Robert M. Baker  
GULF STATES UTILITIES COMPANY

DATED: July 17, 1979

A. J. Dine  
NUCLEAR REGULATORY COMMISSION STAFF

DATED: July 19, 1979

Judith L. Harris  
DEPARTMENT OF JUSTICE

ORDER

Good cause appearing therefor, it is so ordered.

By the Atomic Safety and Licensing Board

Marshall E. Miller  
MARSHALL E. MILLER, CHAIRMAN

Executed at Bethesda, Maryland

on

July 23, 1979