

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
HOUSTON LIGHTING AND POWER COMPANY,)	Docket Nos. 50-498A
et al.)	and 50-499A
)	
(South Texas Project, Unit Nos.)	
1 and 2))	
)	
)	
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))	

FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES
BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON
LIGHTING AND POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

The Public Utilities Board of the City of Brownsville, Texas ("PUB") hereby responds further to certain of Houston Lighting & Power Company's ("HL&P") First Set of Written Interrogatories which sought information and analysis concerning competition and markets in the electric utility industry in Texas.

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Interrogatory No. 24

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;
- (b) every known instance of competition between HL&P and PUB to serve wholesale customers;
- (c) each relevant product and geographic market;
- (d) the nature and extent of competition between PUB and HL&P in each such market;
- (e) the date upon which competition between PUB and HL&P began and the length of time that competition has existed in each such market;
- (f) the identity of every actual competitor in each such market, and a description of such competitor's activities in that market;
- (g) the identity of each potential competitor in each such market;
- (h) the market share of every competitor in each such market;
- (i) every fact that PUB believes tends to establish that HL&P has the power to control prices and/or exclude competition in each such market; and
- (j) the identity and location of every document referring or relating to or setting forth the matters inquired into in this Interrogatory.

(a) In its June 26, 1979 Supplemental Response to HL&P's First Set of Written Interrogatories, PUB stated:

"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.

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"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 principal 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."

In addition, it should be noted that the potential for competition between PUB and HL&P to serve retail electric customers in the future will be substantial to the extent that anticompetitive constraints which would otherwise hinder PUB's ability to compete are removed. Although specific competitive instances can obviously not be predicted for the future, and the competitive impact cannot be measured with precision in advance, the potential for competition is real, substantial, and generally predictable.

(b) If PUB were to obtain sufficient economic generation capacity, it could compete for future wholesale loads with HL&P and others. Although anticompetitive constraints impede this potentially competitive aspect of the market at the present time, their removal would permit its evolution. In general, it is of course not possible to specify competitive instances which did not occur because of the existence of anticompetitive constraints in the marketplace. Therefore, competition between

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HL&P and PUB to serve wholesale customers is an area which has been stifled in the past but one in which competitive potential should not be further constrained in the future.

(c),(d)(i) Retail Competition. Competition, both actual and potential, exists for the sale of electricity at retail in Brownsville. Actual "door-to-door" competition exists among Magic Valley Electric Cooperative, Central Power & Light Company ("CP&L") and PUB as shown in documents previously provided. In addition, active "franchise competition" has existed for some time between PUB and CP&L. HL&P has engaged in activities together with CP&L ^{1/} which have significantly disadvantaged PUB in this "franchise competition". Were such competitive disadvantage serious and continuing, it could be expected that the voters in Brownsville would seek to abolish the PUB in favor of electric retail service from another utility, in this instance CP&L. The geographic market here is the area within and bordering PUB's retail service territory.

A related aspect of competition at retail is so-called "yardstick" competition. Yardstick competition should be viewed more generally than competition specifically for the Brownsville retail market. That is, if PUB is able to offer reliable service at low rates, other municipalities in Texas may consider establishing municipally owned electric systems

^{1/} As a member of the Texas Interconnected System and the South Texas Interconnected System and as a participant in the South Texas Project, as described fully in PUB's Supplemental Response to HL&P's Interrogatories dated June 26, 1979, HL&P participates in the exclusionary and anticompetitive policy and conduct of those groups.

as an alternative to relying on investor-owned utilities for electric service. Conversely, if municipal systems do not compare favorably with the price or quality of service available from the investor-owned sector, there will be competitive pressure to institute improvements in this regard. Thus, not only is yardstick competition likely to contribute to efficiency incentives within PUB, it is also true that if the voters of Houston were to view Brownsville's PUB as a "yardstick" against which HL&P compared favorably, public power would be a competitive threat from HL&P's perspective. The relevant geographic market for retail "yardstick" competition is the State of Texas. The service areas of the other large electric utilities in South Texas, particularly CP&L's general service area, comprise a specific submarket of this larger market.

(ii) Industrial Power Sales. This is competition to serve industries which are either choosing a location for a new plant or are considering the expansion of an existing plant. The geographic market in which such competition occurs depends upon the type of industry involved. For example, with respect to industries requiring deep water port facilities, the Gulf Coast is the relevant geographic market involved. On the other hand, for industries with local product resource or labor market requirements, the relevant geographic market may be all of South Texas, even as far west as El Paso. For other industrial firms without controlling local market requirements --

for example, a chemical producer desiring general proximity to the petroleum industry -- the relevant geographic market may be a multi-state region including parts of Arkansas, Oklahoma and Louisiana, as well as the State of Texas.

(iii) Bulk Power Transactions. PUB is in competition with HL&P for bulk power supply. For instance, in early 1976, PUB and HL&P were both considering and discussing with Lower Colorado River Authority ("LCRA") officials the possibility of obtaining bulk power from LCRA as is shown in Attachment A hereto, which includes an HL&P office memorandum dated April 9, 1976 from G. W. Oprea to T. A. Standish and D. E. Simmons concerning "Purchase Power from Lower Colorado River Authority"; a PUB memo to the file dated March 1, 1976 by H. E. Hastings concerning a February 27, 1976 meeting between PUB and LCRA officials concerning bulk power sales to PUB; and a letter dated March 1, 1976 from H. E. Hastings to Elof H. Soderberg concerning the purchase of power from LCRA.

As shown in the August 3, 1977 letter from Russell L. Sutphen of O'Brien & Gere to the Brownsville Public Utilities Board, included in Attachment B hereto, during 1977 PUB was engaged in a study to identify and evaluate its bulk power supply options alternative to continued wholesale power purchases from Central Power and Light Company.

Among the alternatives considered by PUB was the purchase of power from the San Antonio City Public Service Board (CPSB") which, according to the July 25, 1977 letter from Donald S.

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Thomas of CPSB to H. E. Hastings in Attachment B, anticipated having excess capacity when its coal-fired generating units went into commercial operation. However, CPSB did not want to intrude in CP&L's "operating territory":

From discussions with you, it appears that City Public Service would have no problem providing as much of your current requirements as desired. However, City Public Service Board does not wish to infringe on any other utility's operating territory, and, therefore, will request that you make the necessary arrangements with any of your current suppliers and the appropriate regulatory bodies before entering into any agreement." July 25, 1977 letter, supra.

Moreover, on July 20, 1977, prior to its July 25, 1977 response to PUB, J. B. Poston of CPSB wrote to Aaron E. Autry, then president of CP&L, concerning its discussions with PUB, stating:

". . . Brownsville's staff and consultants made the request for a power and energy proposal from CPS, and we in no way solicited this customer or any other customer not [sic] planning on locating in our service area.

". . . we by no means plan to take the initiative to market this by feeding into other's service area." July 20, 1977 letter.

Thus, it appears that competition among members of STIS for wholesale and other bulk power sales has been restricted through agreements or understandings not to deal with utilities in each other's "operating territory" or "service area". 1/
As a member of STIS and TIS, HL&P has been advantaged in

1/ Judge Porter, in his January 30, 1979 Memorandum Opinion in West Texas Utilities Co. et al. v. Texas Electric Service Co. et al, 470 F. Supp. 798 (N.D. Texas, Dallas Div. 1979), found based on the evidence before him that there was no meaningful competition among members of TIS.

obtaining bulk power supply. It has participated in restrictive agreements, such as the South Texas Plant Participation Agreement, and, together with the other members of STIS and TIS, has benefitted from its access to a bulk power supply market to which PUB and others are allowed only restricted and unequal access.

In addition to such competition for bulk power supplies, there is potential competition between PUB and HL&P for various types of bulk power sales (including, for example, reserve sharing, maintenance power, short term power, seasonal power, economy energy, dump energy, diversity power, off-peak power and firm power) -- particularly if PUB is allowed nondiscriminatory participation in economic bulk power projects such as the South Texas Project and access to the transmission grid. The geographic market for these various bulk power products is presently limited to the geographic area served by ERCOT members by the restrictive "intrastate-only" policy in force in ERCOT. As an economic matter, this market is limited only by transmission expense. This geographic market potentially encompasses the State of Texas and adjacent areas of Louisiana, Arkansas and Oklahoma.

(iv) Transmission Services. Although PUB and HL&P do not presently compete in the sale of transmission services, PUB's ability to compete in the sale of electric power in retail and wholesale markets as well as its ability to compete effectively in terms of franchise and yardstick considerations is greatly

affected by the availability of adequate and nondiscriminatory access to transmission facilities. PUB has been and is dependent upon fair and nondiscriminatory access to the transmission market in South Texas in order to competitively function in the bulk power, industrial power sales and retail power markets described above. This transmission services market has to date been collectively controlled by HL&P, CP&L and the other members of STIS, which have until very recently excluded PUB from such fair and nondiscriminatory access to the transmission market. 1/

PUB is surrounded by CP&L. With the exception of the Comision Federal de Electricidad ("CFE") in Mexico, 2/ the closest utilities with which PUB might deal for bulk power services as an alternative to dealing with CP&L are more than 200 miles away. As described in detail in previous responses to HL&P's interrogatories, on numerous occasions PUB raised the matter of wheeling services with CP&L and CP&L flatly refused to sell such services to PUB, or to discuss planning for the sale of wheeling in the future.

In a letter dated August 8, 1977, Mr. Aaron Autry told Mr. Hastings:

1/ Indeed, PUB has been excluded from access to the transmission market on any terms whatsoever.

2/ CP&L has also in the past agreed with CFE that CFE would refuse to interconnect or interchange power with PUB, thus assuring CP&L's control over transmission to PUB.

"In regard to wheeling capacities, we do not have any surplus transmission capacity to the southern part of our system and, therefore, do not presently have any capacity which would be available for wheeling power for third parties. Furthermore, we do not have any plans for future transmission construction which would include surplus transmission capacity for wheeling power."

CP&L's availability of transmission capacity for third-party wheeling and its willingness to plan future transmission construction to include capacity for wheeling apparently depended upon the identity of the third party seeking wheeling services. Minutes of a meeting between CP&L and Comision de Federal Electricidad officials held on October 3, 1977 -- less than two months following Mr. Autry's August 8, 1977 letter to Mr. Hastings -- state, in part:

" 3) CP&L noted that to increase its capacity to exchange power would require reinforcing its transmission system between Corpus Christi and the Valley. This cannot be done until 1980.

. . .

" 5) CPL proposed to contract [sic] a common consultant with the object of conducting dual studies. CPL recommended using PTI.

" B) We will exchange information on both systems, including annual load forecasts as well as interchange of power from San Antonio's system.

" c) CPL will start delivering power in 1982 which will be equivalent to that of San Antonio."

A September 11, 1978 CP&L interoffice memorandum to R. W. Hardy signed by M. L. Borchelt indicates that talks concerning a bulk power exchange between CFE and San Antonio -- with the energy to be wheeled over CP&L transmission facilities -- were

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in fact pursued. 1/ To the extent CP&L's selective refusals to deal in wheeling services reflect STIS and TIS policies -- or to the extent that HL&P has acquiesced in them -- HL&P has participated in PUB's unfair and discriminatory exclusion from the transmission market in Texas.

In this regard, HL&P and the other members of STIS would have used their monopoly over transmission facilities to competitively injure PUB in the markets where actual and potential competition between PUB and HL&P does exist -- in the retail and industrial power sales and bulk power sales markets as described above.

PUB is constructing transmission facilities in its service area, which will contribute to the State's transmission grid. Where transmission bottlenecks exist, as they do from time to time, utilities depend upon nondiscriminatory access thereto in order to compete successfully. PUB should be allowed to participate in economic bulk power projects and to contribute to existing and planned transmission facilities in Texas so as to enable it to compete.

The geographic market for transmission services is the same as that described above for bulk power transactions. The area encompassed by STIS members forms a submarket of this market.

(v) Nuclear Generation. PUB is attempting to enter the market for nuclear generation so as to compete more effectively

1/ These documents comprise Attachment C.

with HL&P and others. However, as is the case in the market for transmission services described above, PUB needs access to nuclear generation in order to engage in such "franchise", "yardstick", industrial sales and bulk power sales competition. HL&P, with its wholly owned Allens Creek nuclear generating plant (1130 MW), and 385 MW in each of the two South Texas Project nuclear generating units, itself owns somewhat more than half of all nuclear generating capacity presently planned in South Texas; Austin, CP&L and San Antonio own the remainder. PUB has been competitively injured in the markets described above in which actual and potential competition does exist between HL&P and PUB by its exclusion from the nuclear generation market. While the geographic market for nuclear generation is limited by the intrastate policy in force, in terms of economics, the geographic market is limited only by transmission cost.

(e) Competition between HL&P and PUB for retail and industrial sales as described herein has existed since at least 1960 and continues to date.

A significant bulk power sales market is, in large part, a relatively recent development in Texas, a product of oil and gas shortages stemming from the 1973 OPEC embargo and subsequent events. Historically in Texas, gas was cheap and plentiful with the result that the Texas utilities installed generation in relatively small units located near load centers. Thus, until the prospect of diminishing gas supplies caused diversification

into large coal, lignite and nuclear-fueled base load generation, transactions such as economy interchange had relatively little purpose.

(f),(g),(i) Competitors in retail sales markets are those electric utilities such as HL&P, CP&L and Magic Valley Electric Cooperative, which operate there. In addition, PUE is a potential "yardstick" competitor for any utility in Texas. Specifically, such investor-owned utilities include HL&P, CP&L, Community Public Service Company, Texas Power & Light Company, Dallas Power & Light Company, Texas Electric Service Company, West Texas Utilities Company, Gulf States Utilities Company, Southwestern Electric Power Company, and El Paso Electric Company. HL&P and CP&L, being in the more proximate South Texas area, have more competitive significance than the Texas utilities serving more distant areas.

(ii) The identify of competitors for industrial sales varies with the type of industry involved. Competitors for industry requiring proximity to deep water port facilities include PUB, CP&L, HL&P, and Gulf States Utilities Company. PUB, CP&L, El Paso Electric Company, San Antonio Public Service Board, LCRA, HL&P, Community Public Service Company and Austin's City Electric Service are the principal competitors for industries desiring immediate access to product and factor markets in South Texas.

(iii), (iv), (v) Competitors in the bulk power, transmission and nuclear generation markets presently include

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members of ERCOT and, to a lesser extent, the Mexican Comision Federal de Electricidad, which has received export power from CP&L from time to time since about 1965, and has thus been in competition with PUB and others for the available power supply in TIS.

Were the intrastate only restrictions and resulting transmission bottlenecks presently in force in ERCOT removed, Gulf States Utilities, El Paso Electric Company, Southwestern Electric Power Company and possibly utilities serving adjacent areas of Louisiana, Arkansas, and Oklahoma would be additional competitors in these markets, including numerous rural electric cooperatives located in Texas and adjacent areas.

(h) Applicants in this proceeding collectively dominate bulk power transmission facilities and bulk power generation in their combined service areas. As of October, 1978, of a total of 19,768 MW, HL&P, CP&L, San Antonio City Public Service Board ("CPSB") and Austin owned 18,301 MW -- or 92% of all generating capacity in South Texas. LCRA, which as a member of STIS during the early 1970's when the South Texas Project was conceived could have 1/ but chose not to participate, owned 1,271 MW. In other words, the charter members of STIS own nearly 99% of generating capacity in South Texas.

1/ LCRA representatives participated in the South Texas Project Study Committee meetings during the Spring of 1972. In the May 1, 1972 "Report of the Study Committee for the South Texas Nuclear Project" LCRA was listed among the proposed participants, and was to receive an allocation of 125 MW from each of the two proposed units. It was not until March 1973 that LCRA, for reasons of its own, formally withdrew from participation in the project.

Moreover, members of STIS together own virtually all of the 345 KV transmission facilities in South Texas.

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Interrogatory No. 25

25. With respect to Issue V of PUB's Preliminary Statement of Issues, state whether PUB contends that "generation fuels" constitutes a relevant market, and if so separately state:

(a) the relevant product and geographic market, including the identity of every generation fuel in such market;

(b) the nature, extent and duration of competition in such market;

(c) the identity of every competitor in such market;

(d) the market share of every competitor in such market;

(e) the identity of the actual and/or potential customers in such market:

(f) the nature of any evidence in PUB's possession that HL&P has the power to control prices and/or exclude competition in such market; and

(g) the identity and location of every document referring or relating to or setting forth the matters inquired into in this Interrogatory.

PUB contends that "generation fuels", more specifically here nuclear fuels, constitutes a relevant market in the sense that nuclear fueled generation is a relevant market, as described above in response to Interrogatory No. 24, and that -- to state the obvious -- it is the nuclear fuel which makes nuclear generation a unique product.

(a) The geographic market area is, as stated previously, potentially the area limited by transmission cost as an economic matter and presently by agreement and/or contract among them-

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selves, the area encompassed by members of ERCOT. 1/

(b) Competition for nuclear generation is potential in that PUB will not have any actual nuclear-generated electricity until the first of the South Texas Project generating units goes into commercial operation. However, a utility's ownership (or lack of ownership) of capacity in nuclear plants planned and under construction has a large impact on its power supply planning long before the nuclear plant actually goes into commercial operation, thus affecting its competitive position among the utilities with which it competes for retail and large industrial customers.

(c) Competitors in this market presently include the members of STIS, and the municipally-owned utilities and rural electric cooperatives in their service areas who are potential purchasers of capacity in the South Texas Project. Without the intrastate only restrictions enforced within ERCOT, capacity in nuclear generating facilities located outside of the present ERCOT boundaries but within feasible transmission distance

1/ Whether the area limited by economic feasibility is in fact the same area limited by agreement and/or contract among members of ERCOT, has been a question under heated debate since 1976 and considerable money and expertise have gone into supporting both sides of the issue. While PUB has contended that, as a legal matter, such an intrastate only policy should not be permitted, it has not had the necessary resources to make a full-scale independent determination as to the engineering feasibility of interstate as opposed to intrastate only operation. It is noted, however, that if the area limited by economic feasibility is the same as the area limited by agreement, then it is strange indeed that contractual arrangements or other enforcements are essential.

might become part of the market, thus making utilities outside of ERCOT competitors for nuclear generation within the relevant market.

(d) HL&P, CP&L, CPSB and Austin in combination own 100% of the nuclear generation planned and under construction in South Texas. Of these, HL&P owns over 50% of planned nuclear capacity.

(e) Customers and competitors in this market are essentially the same.

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Interrogatory No. 33

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:

- (a) the relevant product and geographic market;
- (b) the identity of every actual and/or potential competitor in that market;
- (c) the nature, extent and duration of competition in the market;
- (d) the market share of every actual and/or potential competitor in the market;
- (e) the identity of every actual and/or potential customer in the market with respect to whom PUB's competitive position has been injured;
- (f) the nature of any evidence in PUB's possession that HL&P has the power to control prices and/or exclude competition in such market; and
- (g) the identity and location of every document referring or relating to or setting forth the matters inquired into in this Interrogatory.

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Interrogatory No. 34

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:

- (a) the relevant product and geographic market;
- (b) the nature, extent and duration of the competition in the market;
- (c) the identity of every actual and/or potential customer in the market;
- (d) the market share of every actual and/or potential competitor in the market;
- (e) the identity of every actual and/or potential customer in the market to whom PUB's access has been restricted; and
- (f) the identity and location of every document referring or relating to or setting forth the matters inquired into in this Interrogatory.

PUB believes Interrogatory Nos. 33 and 34 have been largely answered in its June 26, 1979 Supplemental Response to HL&P's First Set of Written Interrogatories 1/ and in responses above concerning relevant product and geographic markets.

(a) The relevant geographic and product markets in which HL&P's exclusionary conduct in collusion with other members of STIS has damaged PUB competitively are those described in detail in response to Interrogatory No. 24, specifically (i) retail sales market, (ii) industrial power sales, (iii) bulk power transactions, (iv) transmission services, and (v) nuclear generation, with the geographic boundaries of these markets varying as described therein.

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1/ For convenience, copies of PUB's June 26 Response to Interrogatory Nos. 33 and 34 are attached hereto as Attachment D.

(d) All of these markets are thoroughly dominated by STIS, whose members in combination control close to 100% of the market in the case of the transmission services, bulk power services and nuclear generation markets. Moreover, their absolute domination of essential bulk power and transmission services permits them, by withholding access to such services, to seriously damage the ability of non-adjacent systems to compete for retail and industrial loads.

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UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY AUTHORITY

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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TEXAS UTILITIES GENERATING COMPANY,
et al.)

Docket Nos. 50-445A
and 50-446A

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

AFFIDAVIT


I, John W. Wilson, being first duly sworn, depose and state that I am an economic consultant employed by the law firm of Spiegel & McDiarmid for the Public Utilities Board of the City of Brownsville, Texas, that the information and analysis contained in the foregoing Further Supplemental Response of the Public Utilities Board of the City of Brownsville, Texas, to Houston Lighting & Power Company's First Set of Interrogatories, was prepared under my direction, that I have reviewed such Further Supplemental Response, and that the information and matters set forth therein are true and correct to the best of my information, knowledge and belief.



John W. Wilson

Subscribed and Sworn to before me this 19 day of
December, 1979

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Notary Public

My Commission Expires July 31, 1984

FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES
BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON
LIGHTING & POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

ATTACHMENT A

HL&P and PUB memoranda and correspondence during
February, March and April, 1976, concerning bulk power
purchases from Lower Colorado River Authority.

1979 correspondence between LCRA and PUB concerning bulk
power purchases.

90002306

Houston Lighting & Power Company

V 01

OFFICE MEMORANDUM

To: T. A. Standish, D. E. Simmons

April 9, 1976

From: G. W. Oprea

Subject: Purchase Power from Lower Colorado River Authority

If you will recall, I have discussed with the Lower Colorado River Authority the possibility of Houston Lighting & Power Company purchasing power during the period 1980 to 1984. This power would be available from their Fayette Power Plant consisting of two coal fired units scheduled for operation in 1979 and 1980 respectively. The following information has been received indicating the amount of power that can be purchased:

1980	250 MW
1981	250 MW
1982	200 MW
1983	150 MW
1984	150 MW

The above schedule indicates that with the commencement of the purchase of 250 MW, there will be a declining amount in subsequent years, finally terminating by 1985 to no purchase power. Mr. Soderberg from LCRA indicated the cost of power on take or pay would be at \$3.00 per kilowatt. He anticipates the cost of fuel will be as follows:

1980	\$1.21/MBTU
1981	\$1.32/MBTU
1982	\$1.43/MBTU
1983	\$1.57/MBTU
1984	\$1.71/MBTU

In addition, we discussed the possibility of buying off-peak power as becomes available, and would run commencing in 1980 at approximately 1.2 per KWH.

I am to get more detailed information from Mr. Soderberg by official correspondence within the next few days spelling out the aforesaid in more depth. When this is obtained, it will be forwarded to you.

However, during the interim period, it is requested that Mr. Simmons review the effect of this purchase power on our plans for 1980-1984 as to effect on existing plant generation and reserves and the possibility of deferring capital investment in plant if the aforesaid purchase could defer for a year or two additional capacity presently being planned.

Mr. Standish is requested to review the effect of the aforesaid as relates to energy replacement during like period and the effect on our fuel requirements.

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POOR ORIGINAL

HP

OFFICE MEMORANDUM

To

From

Subject Purchase Power from LORA -- Page 2

When the information has been evaluated and you have obtained some viewpoint as to the worth of the program, please contact me so we may schedule a meeting to discuss its importance to the company.

GWO/sra

cc: D. D. Jordan

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APR 12 1976

D. E. SIMMONS

D E S : 1

MEMO TO THE FILE

Meeting with the Lower Colorado River Authority
February 27, 1976

Present were Mr. Elof H. Soderman and Mr. Tinstman from
the Lower Colorado River Authority
Mr. H. E. Hastings, Mr. Mark Stenson and Mr. John Davidson

LCRA has two 600 MW plants under construction, one will be on line and in service in 1979 and the second 600 MW plant will be on line and in service in 1980. The City of Austin owns half of the first plant and will have first call on half of the second plant. This plant is located in La Grange. The capital cost of this coal fired plant complete is \$325 per Kw. They presently have firm commitments, including price, from Combustion Engineers on the boilers and associated equipment, also on the air handling equipment and generators. This means that the \$325 per Kw capital cost will be a very close firm figure. LCRA presently has a coal contract, which is referred to as the Decker contract, which provides for delivered coal at \$1.30 per million BTU. LCRA has just recently negotiated an additional coal contract for the second 600 MW unit and this was negotiated at \$1.00 per million BTU. This indicates that the coal market is beginning to react to the competitive situation of energy and that coal companies now are actually making an attempt to be competitive with each other and enter into coal contracts.

Central Power and Light has approached LCRA on the possibility of purchasing short term power. No commitment has been made. Again this is an indication that Central Power and Light will have a deficiency in their reserves in the immediate 5 year period. LCRA does not have short term power available but will have long term power available. LCRA is very open to supplying power to the City of Brownsville and feel that the transmission problems can be resolved even though it involves interconnection and wheeling arrangements with Central Power and Light. LCRA stated they would be willing to enter into contract negotiations with Brownsville either to let Brownsville purchase a portion of their plant capacity or else LCRA would act as financing agent and view a long term contract just as viable as purchasing a portion of the plant. This would remove the necessity of raising large capital here in Brownsville. LCRA seemed most anxious to enter into contract negotiations for supplying power to Brownsville and appeared to be most cooperative. They did not seem overly concerned about any problems that might evolve because of Central Power and Light but indicated they felt that the problems could be resolved and that they would be helpful in doing this.

March 1, 1976

Mr. Elof H. Soderberg
Chief Engineer
Lower Colorado River Authority
P. O. Box 220
Austin, Texas 78767

Dear Mr. Soderberg:

Thank you very much for your courtesy and encouragement in our meeting last week concerning the possibilities of the Public Utilities Board of the City of Brownsville acquiring firm power from the Lower Colorado River Authority. Please express our appreciation also to Mr. Tinstman.

It is encouraging to Brownsville when we discuss such matters with knowledgeable people as yourself and you can appreciate the position that Brownsville is in.

We are continuing to exert every effort to investigate the alternatives open to Brownsville and will be back in touch with you in a reasonable length of time when we have additional information.

It was a pleasure to meet you personally and I look forward to seeing you again sometime soon.

Yours very truly,

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H. E. Hastings
General Manager

EEH/ck

PUBLIC
UTILITIES
BOARD

BROWNSVILLE

May 21, 1979

Mr. C. Herring
General Manager
Lower Colorado River Authority
P. O. Box 220
Austin, Texas 78767

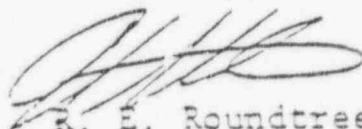
Dear Mr. Herring:

The Public Utilities Board of the City of Brownsville, in accordance with the attached resolution, is interested in purchasing, to the extent your utility is willing to sell, base load capacity, including potential ownership interest from your existing or planned nuclear, coal, or lignite units.

The Public Utilities Board is interested in purchasing approximately fifty (50) megawatts at this time. This amount, of course, could be increased provided that your utility would be interested in short term purchases of excess capacity from any such units purchased by the Public Utilities Board.

I realize that you need time to consider this request, but an early reply will be appreciated. If you have any questions, don't hesitate to telephone me.

Sincerely,



R. E. Roundtree
General Manager

POOR ORIGINAL

90002 11

RER/gg
Attachment

cc: Mr. L. Gawlik
Mr. R. M. Simmons
Mr. J. Davidson
Mr. R. Jablon

A RESOLUTION

WHEREAS, the Public Utilities Board has 113 megawatts of installed capacity; and

WHEREAS, the Public Utilities Board's present contract to purchase power from Central Power and Light Company guarantees wholesale power availability through December 31, 1981; and

WHEREAS, Central Power and Light Company and the Public Utilities Board have reached an agreement in principle under which the Public Utilities Board will have transmission entitlements to obtain additional power supply from all sources and payment for such transmission services will be made through additional purchase of the wholesale power from Central Power and Light Company; and

WHEREAS, Central Power and Light Company has agreed in principle to sell to the Public Utilities Board wholesale power sufficient to meet its future power supply needs; and

WHEREAS, the purchase by the Public Utilities Board of nuclear and fossil fueled base load units is presently more economic than sole reliance on the purchase of wholesale power; and

WHEREAS, the cost of such joint participation by the Public Utilities Board in such other units could be less subject to fluctuation than wholesale power purchases; and

WHEREAS, the Public Utilities Board has the duty and responsibility to secure for its ratepayers and for the City of Brownsville the most economical overall power supply consistent with reliable service and;

WHEREAS, the Public Utilities Board has been advised by its attorneys that it has the right to purchase an ownership interest in the South Texas Project;

NOW, THEREFORE, BE IT RESOLVED by the Public Utilities Board of the City of Brownsville:

1. The General Manager is instructed to request of all systems which may be interested in selling to the Public Utilities Board an interest in their generating units suitable for base load power supply or which would provide an economic advantage if integrated with purchase of wholesale power priced at just and reasonable rates, whether such system would be willing to enter into joint participation arrangements in units by the Public Utilities Board;

2. The General Manager is authorized and instructed to discuss with any such systems, so willing, possible purchases of units of generation and/or wholesale power at economic prices consistent with the above-stated premises; and
3. To the extent that potential joint participants or others may be willing to purchase short-term power from such units, the General Manager is authorized to take such arrangements into account.

PASSED this 28th day of March, 1979.

Kenneth Grouck
Chairman

ATTEST:

Cheryl A. Knib
Secretary To The Board

90002313



Lower Colorado River Authority

Post Office Box 220 Austin, Texas 78767 AC 512 474-5931

CHARLES HERRING, General Manager

August 10, 1979

Mr. R. E. Roundtree
General Manager
Public Utilities Board
of the City of Brownsville
Post Office Box 3270
Brownsville, Texas 78520

Dear Mr. Roundtree:

This is to acknowledge receipt of your letter of May 21, 1979 in which you inquired as to the possibility of purchasing wholesale electric power from the Authority.

I apologize for the delay in replying, but we have been researching the possibility of selling power to your utility and have come to the conclusion that the legislative act creating and regulating the Authority prohibits us from selling firm long term power and energy on a wholesale basis outside of our service area. I am quoting below those portions of the Act relating to this conclusion and the opinion of our Legal Department:

- "1. Section 2(b) of the Lower Colorado River Authority Act, Article 3280-107, V.A.T.S. (hereinafter referred to as "Act") sets forth the general authorization to produce and sell electric power, except as expressly limited by this Act, "to develop and generate water power and electric energy within the boundaries of the district and to distribute and sell water power and electric energy, within or without the boundaries of the district; . . ."

90002514

August 10, 1979

The Act does expressly provide such limitations as found in Section 11 of the Act, the relevant portion excerpted as follows:

" . . . the district may acquire, install, construct, and enlarge and make additions to, and operate one or more steam generating plants, the sum of whose aggregate capacity shall not be more than 5,000 megawatts, to be located within the boundaries of either one or more of Colorado, Fayette, Bastrop, Travis, Blanco, Burnet, Llano or San Saba Counties, Texas, and to be utilized for the purpose of serving the area directly served by the district's transmission lines and distribution systems on January 1, 1975" (Emphasis added)

In our opinion, Section 11 prohibits the sale of long term firm power to the Public Utilities Board of the City of Brownsville inasmuch as that area was not served by the Authority on January 1, 1975. Section 11 of the Act further provides that it is "the policy of this State that . . . the district shall market such electric power . . . under such contracts and on such conditions as will best enable the district to . . . supply the increasing demand for electric power in the area now dependent upon its systems for electric service . . ." (Emphasis added)

However, this does not prevent us from selling short term or temporary power and energy when excess generating capacity is available; i.e., power available over and above that required to serve our existing customers. This would also be conditioned on your being able to obtain satisfactory "wheeling" arrangements with the systems that this power and energy would flow through to your system. We could also provide you with interruptible off-peak economy energy when available, and when the price of same is attractive to you. The TIS Wheeling Policy does not require wheeling arrangements in this latter case unless this transfer injures another system or affects reliability.

90002315

Mr. R. E. Roundtree


-3-

August 10, 1979

As to participation in future generating units, the Fayette Power Project is a joint coal-fired generating facility owned equally with the City of Austin. The "Participation Agreement" for this facility provides that either party has the "right of first refusal" for participation in any future generating capacity installed at this location. Therefore, participation by any other party would be subordinate and subject to this provision.

I certainly understand your desire to provide the least expensive power and energy to your customers - we do also, so we will be glad to discuss any of these items with you further at your request.

Very truly yours,


Charles Herring
General Manager

CH:nr

90002316

FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES
BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON
LIGHTING & POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

ATTACHMENT B

90002517

PUBLIC
UTILITIES
BOARD

BROWNSVILLE

July 15, 1977

Mr. Aaron E. Autry
President
Central Power and Light Company
120 North Chaparral Street
Corpus Christi, Texas 78403

Dear Mr. Autry:

The Purchased Power Agreement between the City of Brownsville and Central Power and Light which was entered into on January 1, 1972, expires on January 1, 1982. Section VIII of that contract indicates that CP&L requires a minimum of four years to make arrangements to construct facilities to meet future demand and further provides that the parties of the contract will enter into negotiations not later than January 1, 1979, in order to consider the renewal and extension of the contract.

As you are aware, the lead time for planning future generation now substantially exceeds four years and the City of Brownsville, in planning for its future power needs, requests that negotiations begin immediately to consider the renewal and extension of the existing purchased power Agreement.

In anticipation of your agreement to begin negotiations, we would also request that you provide us with a copy of your FPC Form 1 for the year 1976 and copies of your latest bond prospectus. We are looking forward to a mutually beneficial negotiation.

Yours very truly,

POOR ORIGINAL



H. E. Hastings
General Manager

HEH/ck

cc: Dr. C. M. Smith, PUCT
Mr. C. H. Hingworth, P. E., OBG

90002618

PUBLIC
UTILITY
BOARD

BROWNSVILLE

July 15, 1977

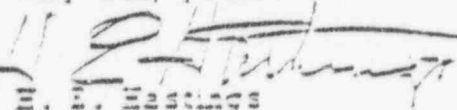
Mr. Aaron E. Autry
President
Central Power and Light Company
120 North Chaparral Street
Corpus Christi, Texas 78403

Dear Mr. Autry:

At our request, representatives of the City Public Service Board (CPSB) met with us and our consultants, O'Brien & Gere Engineers, Inc., on June 14, 1977, in San Antonio at which time CPSB indicated that excess capacity would be available for purchase for Brownsville and other interested utilities following the commercial operation of CPSB's new coal-fired units. Later that day we also met with Mr. Garret Morris, Chairman of the Public Utility Commission of Texas, to ascertain the Commission's policy vis-a-vis power wheeling arrangements between utilities regulated by the Commission.

We request at this time that you provide us with present and anticipated wheeling capacities of present and planned transmission facilities connecting to the Brownsville system as well as to your San Bernardino switching station which would be involved with the wheeling of any CPSB power to Brownsville. We also request that you provide us with anticipated wheeling rates for these facilities.

Very truly yours,


H. R. Hastings
General Manager

POOR ORIGINAL

cc: Mr. J. E. Service, CPSB
Mr. J. E. Thomas, CPSB
Mr. G. Morris, PUCT
Mr. C. E. Ellsworth, P. E., CIG
Dr. C. M. Smith, PUCT
Mr. N. M. Carey, CIG

90002319

CITY PUBLIC SERVICE BOARD

SAN ANTONIO, TEXAS

JULY 20, 1977

Mr. Robert E. Curry
President
Consolidated Power and Light Company
1100 North Chesapeake Street
Corpus Christi, Texas 78403

Dear Mr. Curry:

We have received a copy of a letter from Mr. E. B. Rasmussen, General Manager of the Brownsville Public Utilities Board, asking the Central Power and Light North West utility companies to coordinate the proposed power and energy from City Public Service Company and other sources. As the letter states, Brownsville and other utilities are studying the new power plant and are studying the proposed transmission line, and we are in no way obligated to coordinate with any other utilities in planning or building in our area.

While CPS may have from time to time some available power and energy from some of its power plants, we do not intend to make any further commitments to make the available power by meeting into other companies. As you probably know, there has been a lot of talk about the proposed transmission line, and we are not at all sure of the cost, the need for the existing transmission lines, or the need for new transmission lines. CPS system have asked for and received proposals from time to time.

Concerning the "wheating" which Brownsville supplies, it would be our feeling that this is a subject properly best handled in a public utility as the Texas Independent System, without a public utility as the Texas Independent System. We are not sure the proposed power and energy from the newly started power plants is a timely issue these days.

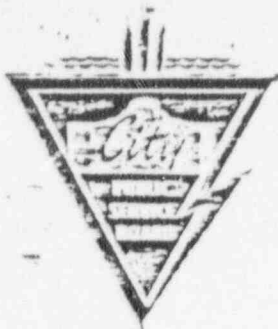
Very truly yours,

90002,20

POOR ORIGINAL

W. B. Rasmussen
Assistant General Manager
City Public Service Board

Enclosure



CC 14 11/14/77-24-1-212

CITY PUBLIC SERVICE BOARD

of
SAN ANTONIO, TEXAS

July 25, 1977

Navarro St. Building
P. O. Box 1271
San Antonio, Texas 78206
227 2211

Mr. E. E. Hastings
General Manager
Public Utilities Board
P.O. Box 3270
Brownsville, Texas 78520

Dear Mr. Hastings:

In response to your letter of June 23, 1977 and oral conversation in the meeting of Tuesday, June 28, 1977, as to availability and price of power from CPS, the following specifics are noted.

City Public Service will have capacity available from our gas/oil fired plants once the new coal fired plants become fully operational this year. This capacity will result in total availability in excess of City Public Service Board's immediate requirements. From discussions with you, it appears that City Public Service would have no problem providing as much of your current requirements as desired. However, City Public Service Board does not wish to infringe on any other utility's operating territory, and, therefore, will request that you make the necessary arrangements with any of your current suppliers and the appropriate regulatory bodies before entering into any agreement.

The rate that City Public Service is proposing to charge for gas/oil capacity would be:

\$1.50 per KW of contracted capacity

\$0.001 per KWH of energy consumed plus appropriate costs of fuel including allowance for transmission losses and required indenture payments to the City of San Antonio (total of 17.11%)

POOR ORIGINAL

The energy consumed would be metered at City Public Service system boundaries, and any other costs or arrangements for transmitting the energy would have to be borne by the Public Utilities Board.

The costs of fuel would be equal to the average costs experienced at the CPS gas/oil generating facilities on line during the period of generation. However, during those periods when all of CPS's existing customers' requirements can be met with coal generation, the customers on the above rate schedule will be allowed a pro-rata share in these cheaper coal costs to the extent available.

90002621

Mr. H. E. Hastings

-2-

July 25, 1977

In regard to your request to enter in as a firm customer of CPS, arrangements could be made to meet this desire. The rates that would apply in that eventuality would be the Board's standard rates which provide for the fully allocated cost sharing of the planned generation and other costs of doing business. As in the provision of excess capacity, necessary arrangements with other affected parties would have to be made prior to becoming a firm customer.

I hope that the above general guidelines will provide the data necessary for you to properly evaluate the availability and price of power and energy from CPS. Should you have any other questions concerning this matter, please feel free to contact me at your convenience and, as we discussed, City Public Service is agreeable and anticipates that the Public Utilities Board will notify other affected utilities and regulatory bodies of this request and response.

Sincerely,



Donald S. Thomas
Manager
Information Services System

DST:jpk

90002,22

POOR ORIGINAL



O'BRIEN & GERE

August 3, 1977

Hon. Ruben Edelstein, Mayor
Mr. Israel Liska, Chairman
and Members of the
Public Utilities Board
P. O. Box 3270
Brownsville, Texas 78521

Re: Brownsville, Texas
Bulk Power Supply Study
and Negotiations

File: 1701.001.110

Gentlemen:

In accordance with our proposal of December 31, 1976, we have completed the first phase of the subject Study, an identification of the more viable options for bulk power supply, and we wish to convey herewith the results of our activities along with our recommendations for further actions by the Public Utilities Board.

We have identified the following possible options open to Brownsville:

1. Continued purchases from the Central Power & Light Company (CP&L)
2. Purchases from the City Public Service Board of San Antonio (CPS)
3. The installation of new generating facilities in conjunction with other utilities

It is our recommendation that Brownsville continue negotiations with both CP&L and CPS and consider conducting a joint pre-feasibility study for developing a jointly owned new generating facility with the Magic Valley Electric Cooperative and possibly with ~~the~~ Robstown Municipal Systems.

POOR ORIGINAL

90002623

oil ~~2.5%~~ 104 BTU
had LCO

File
Bulk Power Supply

Hon. Ruben Edelstein, Mayor
Mr. Israel Liska, Chairman
and Members of the
Public Utilities Board
August 3, 1977
Page Two

DISCUSSIONS WITH OTHER UTILITIES

In evaluating these options we made the following contacts:

1. CPS - CPS has expressed a willingness to supply power beginning later this year from existing capacity made surplus by the installation of a new coal-fired unit. Power would be from gas-oil fired units. The economic advantages of this power can only be determined once and if negotiations are completed with CP&L for wheeling.
2. CP&L - In a preliminary discussion, CP&L indicated its willingness to provide Brownsville with power following expiration of the existing contract in 1982. The General Manager has made a formal written request to CP&L to begin negotiations for a new contract as well as requesting wheeling rates for CPS power. For comparison purposes, proposed rates were obtained which CP&L has presented to another utility generating a portion of its own requirements.
3. Lower Colorado River Authority (LCRA) - During a brief meeting, LCRA indicated that surplus power would be available for sale following completion of a new lignite-fueled unit in 1979. LCRA was not in a position however to provide preliminary cost estimates for this power and further indicated that it would be difficult or impossible to wheel power to Brownsville if LCRA became separated from CP&L which would happen if CP&L becomes connected to utilities outside of Texas.
4. Texas Municipal Power Authority (TMPA) - A preliminary meeting was held with TMPA in which TMPA indicated that it would consider assisting Brownsville in the following manner:
 - a. Sales to Brownsville through wheeling agents from TMPA generating resources

POOR ORIGINAL

90002 24

Hon. Ruben Edelstein, Mayor
Mr. Israel Liska, Chairman
and Members of the
Public Utilities Board
August 3, 1977
Page Three

- b. Purchase by Brownsville of blocks of capacity from TMPA generating units
- c. TMPA financing of generating facilities owned solely by Brownsville or in conjunction with other utilities. Under this arrangement, made possible by recently enacted legislation, Brownsville, possibly in association with others, would maintain ownership under some type of leasing arrangement for generation financed by TMPA and would be responsible for payment from revenue for amortization of the facilities.

CONTINUED PURCHASES FROM CP&L

It is impossible to establish at this time which of the three major options would be the most economic. As to ease of implementation, continued purchases from CP&L under a new contract would be the best option. CP&L would provide any required strengthening of transmission facilities required in the future and there would be no need to negotiate additional wheeling contracts. Assuming a continuation of Brownsville's requirement to maintain a 15% generation reserve, the 60 Mw of existing combustion turbine capacity would be more than adequate past 1990. For comparative purposes an estimate was made using a tentative rate already proposed to another utility by CP&L to determine the cost of providing full power requirements to Brownsville for the year 1982. In the calculation the load predicted by the Electric Department staff was utilized resulting in an estimated cost per Kwh of 29.9 mills.

PURCHASES FROM CPS

Purchases from CPS might be desirable if satisfactory wheeling arrangements can be established with CP&L. This may not be possible without litigation. The Texas Public ~~Service~~ ^{Utility} Commission (TP&C) has indicated that it would require wheeling provided such an arrangement would not adversely affect the interconnected system and provided that such an arrangement

POOR ORIGINAL

90002 25

Hon. Ruben Edelstein, Mayor
Mr. Israel Liska, Chairman
and Members of the
Public Utilities Board

August 3, 1977

Page Four

would be more economical than any other source of power and that wheeling facilities are adequate. It was further indicated that the burden of proof for the last two requirements in any proceedings before the TPSC would rest with Brownsville. Furthermore, Brownsville might be obligated to provide additional transmission facilities in the future for continuing load growth. For comparative purposes an estimate was made for CPS to supply all of Brownsville's power requirements based upon preliminary cost estimates from CPS. Using an assumed transmission loss of 5%, this results in an average cost of 23.3 mils/Kwh, excluding wheeling charges. When compared to the estimate of 29.9 mils/Kwh stated for CP&L, above, this allows a margin of 6.6 mils/Kwh for wheeling, a more than ample amount.

Another opportunity, subject to successful wheeling negotiations, is for near future purchases from CPS to supplement CP&L purchases until the expiration of the existing contract.

JOINT GENERATION PROJECT

The evaluation of direct power purchases or capacity purchases from TMFA must await further data from that agency. Because of financial limitations, it does not appear feasible for Brownsville to install additional generating capacity of sufficiently large scale to realize heat rates required for economic benefit. ~~Furthermore, conversion of the relatively uneconomic existing generation to oil firing cannot be justified.~~

TMFA funding of a joint generation project with the Magic Valley Co-op., either in total, or for the Brownsville portion, appears to be worthy of serious consideration. Such an arrangement would overcome present financial restraints opposing installation of major generating facilities by Brownsville. Furthermore it might provide a more secure source of power from the region which presently must rely on rather tenuous transmission facilities which should soon be nearing their capacity.

POOR ORIGINAL

90002 26

Hon. Ruben Edelstein, Mayor
Mr. Israel Liska, Chairman
and Members of the
Public Utilities Board
August 3, 1977
Page Five

POOR ORIGINAL

Timing would be a critical factor in such a venture. At best, about five years would be required before major generation could be in commercial operation. Should the installation of such a plant prove feasible, it may be necessary to arrange for interim purchases from CP&L or CPS between the expiration of the existing CP&L contract and the operation of the new plant.

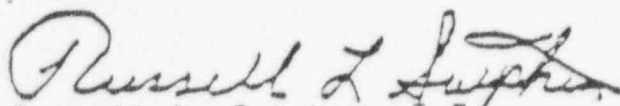
The following procedures are recommended for evaluating the feasibility of such a plant.

1. A legal and financial review of Texas Senate Bills Nos. 1046 and 1143, referring to TMPA power developments and financing, as they might apply to Brownsville.
2. Discussions with the TMPA, the Magic Valley Co-op., and the Cities ~~of~~ and Robstown to ascertain their possible commitments to such a development.
3. If 1 and 2 above appear favorable to continuation, authorization with other interested parties of a joint pre-feasibility study to be conducted concurrently with power purchase negotiations with CPS and CP&L. To be economical any new plant would probably require that total capital and operating costs be below 30 mils/Kwh. This of course would depend on many variables such as fuel supply, site development costs, environmental considerations, etc.

This report completes our work under Phase .010, Study of Bulk Power Options as set forth in our Proposal dated December 31, 1976. We sincerely appreciate this opportunity of having assisted in the initial stage of your bulk power development program.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.


Russell L. Sutphen, P.E.
Vice President

90002 27

cc: Mr. H. E. Hastings
J. W. Davison, Esq.
Mr. J. J. Keegan, P.E.
Mr. C. E. Illingworth, P.E.

7.12

RECEIVED

August 3, 1977

100

PUBLIC UTILITIES BOARD

Mr. H. B. Hastings, General Manager
Public Utilities Board of the City of Brownsville
P.O. Box 3270
Brownsville, TX 77820

Dear Mr. Hastings:

We have received your letter requesting that negotiations begin to consider the renewal and expansion of the existing Purchase Power Agreement between the City of Brownsville and Central Power and Light Company. This is to advise you that we are willing to begin such negotiations and ask that you contact Mr. W. C. Price, who will represent our company in these negotiations.

Sincerely,

Aaron Autry
Aaron Autry

POOR ORIGINAL

AA/fg

cc: Mayor Ruben Edelstein
R. W. Hardy
W. C. Price

90002 28

August 3, 1977

Mr. G. B. Poston, Assistant General Manager for Operations
City Public Service Board of San Antonio
P.O. Box 1771
San Antonio, TX 78296

Dear Mr. Poston:

Thank you for your letter of July 20, 1977 regarding the contact made by the Brownsville Public Utilities Board. In response to a request by Mr. Hastings, we have informed the Public Utilities Board that we are willing to begin negotiations to consider the renewal and extension of our contract with them. We have also informed them that we do not have any surplus transmission capacity which would be available for wheeling power for third parties.

Very truly yours,

Aaron Autry
Aaron Autry

POOR ORIGINAL

AA/fs

90002 29

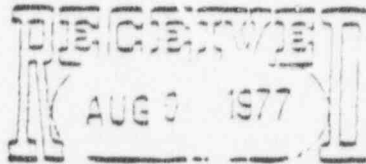
cc: R. W. Hardy
W. C. Price
Merle Borchelt

CP

4800



Office of the President

PUBLIC UTILITIES BOARD
BROWNSVILLE, TEX.

August 8, 1977

Mr. H. E. Hastings, General Manager
Public Utilities Board of the City of Brownsville
P.O. Box 3270
Brownsville, TX 78520

Dear Mr. Hastings:

We have received your letter requesting information in regard to wheeling capacities and wheeling rates. Since we have never participated in wheeling arrangements, we do not have the anticipated wheeling rates which you request.

In regard to wheeling capacities, we do not have any surplus transmission capacity to the southern part of our system and, therefore, do not presently have any capacity which would be available for wheeling power for third parties. Furthermore, we do not have any plans for future transmission construction which would include surplus transmission capacity for wheeling power.

Sincerely,

Aaron Autry

POOR ORIGINAL

AA/fg

cc: Mayor Ruben Edelstein
R. W. Harty
W. C. Price

90002,30

FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES
BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON
LIGHTING & POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

ATTACHMENT C

90002531

March 2, 1977

Mr. H. E. Hastings, General Manager
Public Utilities Board of the City of Brownsville
P.O. Box 3270
Brownsville, TX 78520

Dear Mr. Hastings:

We have received your letter requesting information in regard to wheeling capacities and wheeling rates. Since we have never participated in wheeling arrangements, we do not have the anticipated wheeling rates which you request.

In regard to wheeling capacities, we do not have any surplus transmission capacity to the southern part of our system and, therefore, do not presently have any capacity which would be available for wheeling power for third parties. Furthermore, we do not have any plans for future transmission construction which would include surplus transmission capacity for wheeling power.

Sincerely,



Aaron Autry

POOR ORIGINAL

AA/fs

90002532

cc: Mayor Ruben Edelstein
A. W. Hardy
W. C. Price

cc: Marie Borchelt
W. A. Smith, Jr.
A. C. Kindel
Tyler Russell

C/P

4805

04513

Minutes of CPL-CFE Meeting
October 3, 1977 - Monterrey, Mexico

~~Act~~
~~1703~~
File

- 1) We exchanged information on studies conducted by CPL and CFE concerning load flow studies between the years 1977 and 1982 started by CFE.
- 2) CFE stated that by mid-1978 Unit #3 of the R. V. Altamira will be in operation with a capacity of 300 MW. This unit can be connected to SCONE this same year, 1978, in an emergency condition exists and connected permanently in 1979. Meanwhile, it will be required to increase the capacity of our lines up to 250 MW. Another alternative would be to link the systems north and south of CFE, which would result in opening ties with CPL.
- 3) CFE noted that to increase its capacity to exchange power would require reinforcing its transmission system between Corpus Christi and the Valley. This cannot be done until 1980.
- 4) CFE added that it could speed up construction of a line from Transmission Arroyo del Coyote-Nava, which would result in supporting part of CPL's southwest system and improving conditions for exchanging power between CPL and CFE.
- 5) CPL proposed to contract a common consultant with the object of conducting dual studies. CFE recommended using PTI.

AGREEMENTS

- A) Before starting construction on transmission lines discussed in Nos. 3 and 4 and other related projects, we must conduct load flow studies each year between 1978 and 1982.
- B) We will exchange information on both systems, including annual load forecasts as well as interchange of power with San Antonio's system.
- C) CPL will start delivering power in 1982 which will be equivalent to that of San Antonio.
- D) CFE will check with the proper authorities and examine the possibilities of a contract with PTI.
- E) Our next meeting will be in Corpus Christi the first week of November.

POOR ORIGINAL

90002333

Translated from CFE notes in Spanish

CONFIDENTIAL

EPRI

INTEROFFICE

SUBJECT: COT Negotiations with San Antonio

Corpus Christi,

TO: R. W. Hardy

AT: Executive

September 11,

cc: A. E. Aubrey
C. E. Orsak

Thursday, September 7, at the ERCOT Annual Meeting in Austin, Texas, Boston, Assistant Manager, San Antonio Public Service, indicated that he had been approached by at least two of the San Antonio City Councilmen to negotiate with COT for the possible sale of some surplus power and energy.

One of the San Antonio City Councilmen (Juan Sarmiento?) arranged a meeting recently in Mexico City. Jass said they had met with Mr. Hoffman, the Sub-Director General, and several high level members of his staff with whom we are also acquainted (as I saw Mr. Macdonald and Mr. Sarmiento). Subsequent to this meeting, a short meeting was also held with the new Mexican President, Lujan Norzillo.

According to Jass COT would like a solid interconnection with San Antonio to enable COT to purchase surplus power and energy until the COT coal-fired plants at Rio Hondo go into operation in some three to five years. Jass said that he told the COT officials that they could do nothing without the help and support of COT and asked me if we would be willing to participate in the construction of a 345 KV line between San Antonio and Del Rio. I told him of our previous negotiations with COT and that our planning in recent months seemed to have bogged down to the point where we were considering opening the COT - COT ties. We discussed the details of our present arrangement at some length.

I told Jass that we were in the process of trying to reestablish contact and planning with COT and that I would keep him advised of any progress. He likewise indicated that he would keep me advised relative to their negotiations.

POOR ORIGINAL

90002334

MS:ver

M. L. Borchelt

FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES
BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON
LIGHTING & POWER COMPANY'S FIRST SET OF WRITTEN
INTERROGATORIES

ATTACHMENT D

PUB's June 26, 1979 response to Interrogatory Nos. 33 and 34.

90002335

33. State separately every action or course of conduct by H&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 H&P's exclusionary conduct. These actions by H&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.

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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.

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34. Separately state every action or course of conduct by HEP 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 believes it has been injured by HEP'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.

HEP has conspired with and participated in actions of HEP and other excluding, until March of this year, PUB from membership in those organizations. From 1968 until its most recent meeting in January 1979, PUB on numerous occasions sought membership in HEP, both in writing and during meetings with HEP. 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. D. GORTON, PUB, to R. N. ROBINSON, HEP, requesting membership in HEP, HEP's HEP Office Memoranda dated November 14, 1968, from R. D. GORTON to R. B. HILKEY, and from R. N. ROBINSON to R. B. HILKEY, and an HEP memorandum from L. D. COLLINS concerning a meeting of HEP on May 21, 1969, all obtained from the U. S. District Court discovery documents made available to PUB in Houston. These documents indicate that HEP was aware of PUB's requests for membership in HEP and acted with the support of a policy to exclude PUB, and similar small municipal utilities, from

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for membership. The May 21, 1969 memorandum further shows that STB and HEB, and HEB as a member thereof, were deliberately pursuing a policy intended to restrict STB and other municipal utilities from membership in HEB and STB.

HEB is signatory to the South Texas Project Participa-
tion Agreement, executed as of July 1, 1973. As such, HEB, to-
gether with the other parties to that Agreement, effectively denies
STB access to that nuclear project. Both Section 3.2 of the Agree-
ment requiring that each participant construct and own transmission
facilities between its system and the STB switchyard, and Section
10, establishing rights of first refusal, copies of which are at-
tached, are exclusionary provisions which function to virtually
deny small systems such as STB the opportunity to participate.

HEB has conspired with and participated in actions in-
tended to restrict ERCOT electric utilities from operating inter-
state. As indicated in response to Interrogatory Nos. 36 and 37,
HEB 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 HEB vigorously
advocated this result. While STB representatives have reviewed
the record of this proceeding, STB was not party to it and believes
that HEB possesses more complete documentation relating to it
than does STB.

POOR ORIGINAL

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prior to the Texas PUC Docket 14 proceedings, H&W had participated in bilateral agreements which permitted H&W to disconnect and commence the agreement in the other party entered interstate operation. Judge Potter, 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 the other members of the members of the PUC that, in order 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 interstate mode. This understanding was, for example, reflected in the WTP-NEPCO contract which was subject to immediate cancellation by telephonic notice. Plaintiffs gave no notice prior to their commencement of interstate operation on May 4, 1976 but claim they feared defendants would exercise their right to disconnect."

Numerous documents in the U.S. District Court and other case discovery indicate that H&W and EPSC, and H&W as a member thereof, drafted reports and responded to various requests for information from EPSC and NERC relating to interconnection with the Southwest Power Pool and related matters in ways intended to discourage NERC and EPSC interest in pursuing such an interconnection. Certain of these documents are being supplied. PUC is continuing the 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.

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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 H&P, who benefited from their coordinated response to that situation.

POOR ORIGINAL

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UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

POOR ORIGINAL

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

HOUSTON LIGHTING & POWER COMPANY,)
et al.)

Docket Nos. 50-498A
and 50-499A

(South Texas Project, Unit Nos.
1 and 2)

In the Matter of)

TEXAS UTILITIES GENERATING COMPANY,)
et al.)

Docket Nos. 50-445A
and 50-446A

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

AFFIRMATION OF SERVICE

I, Susan G. White, being first duly sworn, affirm that copies of the foregoing FURTHER SUPPLEMENTAL RESPONSE OF THE PUBLIC UTILITIES BOARD OF THE CITY OF BROWNSVILLE, TEXAS TO HOUSTON LIGHTING AND POWER COMPANY'S FIRST SET OF WRITTEN INTERROGATORIES in the above-captioned proceedings have this 20th day of December, 1979, been served upon the following persons by deposit in the U.S. mail, first class postage prepaid:

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Atomic Safety & Licensing Board
Panel
Nuclear Regulatory Commission
Washington, D. C. 20555

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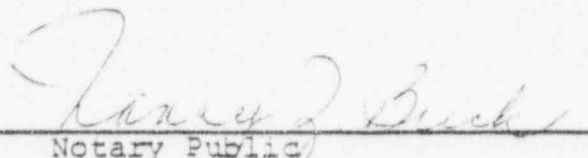
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Susan G. White

SUBSCRIBED AND SWORN TO before me, a Notary Public in and
for the City of Washington, District of Columbia, this 20th day
of December, 1979.



Notary Public

My Commission Expires September 30, 1984

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