



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

HOUSTON LIGHTING & POWER COMPANY)	
THE CITY OF SAN ANTONIO)	
THE CITY OF AUSTIN, AND)	Docket Nos. 50-498A
CENTRAL POWER AND LIGHT COMPANY)	50-499A
)	
(South Texas Project, Unit Nos.)	
1 and 2))	

FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS FROM
HOUSTON LIGHTING & POWER COMPANY TO NRC STAFF

Preface

Pursuant to Sections 2.720, 2.740, 2,744 and 2.790 of the Commission's Rules of Practice, Houston Lighting & Power Company propounds the following Interrogatories and Requests for Production of Documents to the NRC Staff ("Staff"). Each interrogatory should be answered separately and fully in writing under oath or affirmation by the person or persons making them, and each document requested should be produced, no later than 30 days after service of these Interrogatories and Requests for Production.

Definitions

As used herein the terms listed below are, unless otherwise specifically indicated, intended to have the following meanings:

1. "Documents" refers to all writings and records of every type in the possession, control or custody of the Staff, including but not limited to memoranda, correspondence,

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reports, (including drafts, preliminary, intermediate and final reports); surveys, studies (including, but not limited to, engineering, economic, and market studies), comparisons, tabulations, charts, books, pamphlets, photographs, maps, bulletins, minutes, notes, diaries, log sheets, ledgers, vouchers, accounting statements, engineering diagrams (including those known as "one line diagrams"), mechanical and electrical recordings, telephone and telegraphic communication, speeches, and all other records, written, electrical, mechanical or otherwise.

"Documents" shall also refer to copies of documents, even though the originals thereof are not in the possession, custody or control of the Staff, every copy of a document which contains handwritten or other notations or which otherwise does not duplicate the original or any other copy, and all attachments to any document.

2. Identification of a person includes stating his or her full name, his or her most recent known home address and telephone number, his or her most recent known business address and telephone number, his or her present position, and his or her prior connection or association with any party to this proceeding.

3. "Advice letter" refers to any advice rendered by the Attorney General to the Nuclear Regulatory Commission or its predecessor pursuant to §105(c)(1) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c)(1).

General Instructions

The following General Instructions apply to each of the discovery requests contained herein.

1. In the response to each of the interrogatories which follow, identify each person capable of furnishing testimony concerning the response given to such interrogatory.

2. If you claim privilege as to any communication as to which information is requested by these interrogatories or as to any answer requested by these interrogatories, specify the privilege claimed, the communication and/or answer as to which that claim is made, the topic discussed in the communication, and the basis on which you assert that claim.

3. In the event any document requested in these interrogatories is unavailable, describe in detail the reasons therefor.

4. Except where otherwise noted, the words or phrases in quotations refer to excerpts from the South Texas operating license advice letter, dated February 21, 1978 , from John H. Shenefield to Howard K. Shapar.

5. These interrogatories are continuing and require supplemental answers if you obtain further information with respect to the same between the time your answers are served and the time of the evidentiary hearing.

Interrogatories

1. With respect to the South Texas construction permit antitrust review,

(a) identify those persons with whom the Staff communicated in the course of its South Texas construction permit antitrust review; and

(b) provide all documents relevant to such communications or otherwise to the review.

2. With respect to the South Texas operating license antitrust review,

(a) identify those persons with whom the Staff communicated in the course of its South Texas operating license antitrust review; and

(b) provide all documents relevant to such communications or otherwise to the review.

3. With respect to the Allens Creek construction permit antitrust review,

(a) identify those persons with whom the Staff communicated in the course of its Allens Creek construction permit antitrust review; and

(b) provide all documents relevant to such communications or otherwise to the review.

4. With respect to the Comanche Peak construction permit antitrust review,

(a) identify those persons with whom the Staff communicated in the course of its Comanche Peak construction permit antitrust review; and

(b) provide all documents relevant to such communications or otherwise to the review.

5. (a) Does the Staff contend that Houston has denied any other utility access to or participation in the South Texas Project or any other nuclear plant?

(b) If so, describe the circumstances surrounding each such denial, including: (1) identification of the requesting utility, (2) name and title of the person making the request, (3) form of request (i.e., written or oral, in person or by telephone) and, if oral, a list of all persons present at the time the request was made, (4) date of request, (5) person to whom request was addressed, (6) name of person who responded to request, (7) form of response (i.e., written or oral, in person or by telephone) and, if oral, a list of all persons present at the time the response was given, (8) person to whom the response was addressed, and (9) date of response.

(c) State whether the Staff has knowledge that a utility has considered requesting Houston to grant access to or participation in the South Texas Project but did not communicate such request to Houston. If so, identify each such utility and the circumstances surrounding such consideration.

(d) Provide all documents relevant to this interrogatory.

6. (a) Does the Staff contend that the South Texas Project is in any way essential or uniquely advantageous to a utility which is a member of the Southwest Power Pool?

(b) If so, (1) set forth the facts upon which the Staff relies to support this contention; (2) explain why participation in STP is more essential than participation in the nuclear generating facilities which are proposed, under construction, or in operation within the Southwest Power Pool; and (3) provide all documents relevant to this interrogatory.

7. (a) Does the Staff contend that Houston possesses monopoly power or some other degree of market power relevant to this proceeding?

(b) If so, (1) identify each product and geographic market in which Houston has such power, (2) describe the type and extent of competition in each such identified market, (3) state the market share of every utility in each such market, (4) identify every action taken by Houston to acquire or maintain its alleged monopoly power, (5) identify each abuse of each instance of such power by Houston, and (6) identify each change in such conduct since October 1974.

(c) Provide all documents relevant to this interrogatory.

8. (a) Does the Staff contend that TU possesses monopoly power or some other degree of market power relevant to this proceeding?

(b) If so, (1) identify each product and geographic market in which TU has such power, (2) describe the type and extent of competition in each such identified market, (3) state the market share of every utility in each such market, (4) identify every action taken by TU to acquire or maintain its alleged monopoly power, (5) identify each abuse of each instance of such power by TU, and (6) identify each change in such conduct since January 1974.

(c) Provide all documents relevant to this interrogatory.

9. (a) Notwithstanding the answers to Interrogatories 7 and 8, does the Staff contend that Houston and TU jointly possess monopoly power or some other degree of market power relevant to this proceeding?

(b) If so, (1) identify each product and geographic market in which Houston and TU jointly possess such power, (2) describe the type and extent of competition in each such identified market, (3) state the market share of every utility in each such market, (4) state the basis upon which the Staff contends the market shares of Houston and TU may be aggregated to find joint monopoly power, (5) identify every action taken by Houston or TU to acquire or maintain each such instance of such joint power, (6) identify each abuse by Houston or TU of each such instance of such joint power, and (7) identify each change in such conduct since January, 1974.

(c) Provide all documents relevant to this Interrogatory.

10. (a) Does the Staff contend that an agreement between Houston and TU existed prior to May 4, 1976, which provided that they would disconnect from any other member of TIS which enters interstate operation?

(b) If so, (1) specify the details of such an agreement, (2) identify the persons involved in making the agreement, (3) state the date of the agreement, and (4) state the form of the agreement (e.g., written or oral, in person or by telephone), and, if oral, identification of all persons present.

(c) Provide all documents relevant to this interrogatory.

11. (a) Does the Staff contend that Houston acted in concert with any other utility when it disconnected from all other TIS systems on May 4, 1976?

(b) If so, provide a basis for your answer, including (1) identification of all persons involved in each such action; and (2) date and time of day of such action.

(c) Provide all documents relevant to this interrogatory.

12. (a) Does the Staff contend that Houston's unilateral reservation of the right to determine whether it operates in interstate commerce during the term of the South Texas operating licenses serves to create or maintain a situation inconsistent with the antitrust laws within the meaning of §105(c)(5) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c)(5)?

(b) If so, (1) state whether the situation would be created or maintained; and (2) identify the antitrust law or laws with which the inconsistency would arise.

(c) If not, state whether the Staff contends that the reservation of such a right is inconsistent with the antitrust law or laws only if carried out in concert with another utility; and, if it does so contend, then (1) state whether the situation would be created or maintained; and (2) identify the antitrust law or laws with which the inconsistency would arise.

(d) For each antitrust law identified in your answer to (b)(2) or (c)(2), state specifically the legal theory or theories upon which the Staff bases its contention that "a situation inconsistent with the antitrust law would be created or maintained.

13. (a) Identify each instance of alleged injury to actual competition from any unilateral decision or policy by Houston to operate in the intrastate mode, including identification of (1) each injured person; (2) the relevant product and geographic market; (3) the type and extent of competition in each such market; (4) the market share of every utility in each such market; and (5) the specific cause and nature of each such injury.

(b) Provide a basis for your answer, and provide all documents relevant to this interrogatory.

14. If the Staff contends that Houston was or is party to an "intrastate only" agreement:

(a) Identify each instance of alleged injury to actual competition from the alleged "intrastate only" agreement, including identification of (1) each injured person; (2) the relevant product and geographic market; (3) the type and extent of competition in each such market; (4) the market share of every utility in each such market, and (5) the specific cause and nature of each such injury.

(b) Provide a basis for your answer, and provide all documents relevant to this interrogatory.

15. (a) Identify each instance of alleged injury to potential competition from any unilateral decision or policy by Houston to operate in the intrastate mode, including identification of (1) each injured person; (2) the relevant product and geographic market; (3) the type and extent of competition in each such market; (4) the market share of every utility in each such market; and (5) the specific cause and nature of each such injury.

(b) Provide a basis for your answer, and provide all documents relevant to this interrogatory.

16. If the Staff contends that Houston was or is party to an "intrastate only" agreement:

(a) Identify each instance of alleged injury to potential competition from the alleged "intrastate only" agreement, including identification of (1) each injured person; (2) the relevant product and geographic market; (3) the type

and extent of competition in each such market; (4) the market share of every utility in each such market, and (5) the specific cause and nature of each such injury.

(b) Provide a basis for your answer, and provide all documents relevant to this interrogatory.

17. (a) Identify each of the areas in which HL&P and/or TU are in competition with other utilities, including but not limited to:

(1) each relevant product and geographic market;

(2) the nature and extent of competition in each market;

(3) identity of each actual competitor (including, if relevant, Houston and TU) in each market, and a description of such competitor's activities in the market;

(4) identity of each potential competitor (including, if relevant, Houston and TU) in each market, and a description of such competitor's potential activities in the market; and

(5) the market share of every utility in each such market.

(b) Provide a basis for your answer, and provide all documents relevant to this interrogatory.

18. (a) Does the Staff contend that the activities under the proposed operating licenses will create or maintain a situation inconsistent with the antitrust laws on the basis of significant changes in the Applicants' activities which have occurred subsequent to the previous review by the Attorney General and the Commission?

(b) If so,

(1) specifically identify the changes on which the Staff relies,

(2) explain the connection between such changes and the alleged situation inconsistent with the antitrust laws, and

(3) provide all documents relevant to this interrogatory.

19. (a) Does the Staff contend that the "changing fuel situation" in Texas constitutes "significant changes in the licensee's activities or proposed activities" within the meaning of §105(c)(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c)(2)?

(b) If so, provide a basis for your answer.

20. Does the Staff contend that there is the need and opportunity for coordination between interstate and intrastate utilities? If so, explain how intrastate utilities can coordinate or cooperate with interstate

utilities and still maintain their intrastate status under the legal standards of Florida Power & Light Company v. FPC, 404 U.S. 453, 92 S.Ct. 637 (1972).

21. (a) Does the Staff contend that, even given proper advance planning, CP&L and WTU cannot withdraw from TIS and operate in interstate commerce without operating difficulties, and without impairing their "competitive viability"?

(b) If so, state in detail the factual and legal basis for this conclusion, and provide all documents relevant to this interrogatory.

22. (a) Does the Staff have any evidence showing the effect, or lack of effect, of CSW's preferred mode of integration of its operating companies (i.e., Mode 4), as proposed by CSW in SEC Administrative Proceeding File No. 3-4951, upon (1) the reliability of Houston's electric service, (2) Houston's capital expenditures, (3) Houston's operating costs, (4) Houston's electric rates to its customers, and (5) Houston in any other way.

(b) Does the Staff contend that CSW's Mode 4 integration plan will result in a net benefit to Houston? If so, state the basis for this conclusion and set forth facts upon which the Staff will rely on to support this conclusion.

(c) Provide all documents relevant to this interrogatory.

23. (a) Does the Staff contend that the City of Austin is responsible for the creation or maintenance of a situation inconsistent with the antitrust laws, within the meaning of §105(c) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c), in connection with the South Texas Project?

(b) If so, state the basis for your answer, and provide all documents relevant to this interrogatory.

24. (a) Does the Staff contend that the City of San Antonio is responsible for the creation or maintenance of a situation inconsistent with the antitrust laws, within the meaning of §105(c) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c), in connection with the South Texas Project?

(b) If so, state the basis for your answer, and provide all documents relevant to this interrogatory.

25. (a) Does the Staff contend that CP&L is responsible for the creation or maintenance of a situation inconsistent with the antitrust laws, within the meaning of §105(c) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2135(c), in connection with the South Texas Project?

(b) If so, state the basis for your answer, and provide all documents relevant to this interrogatory.

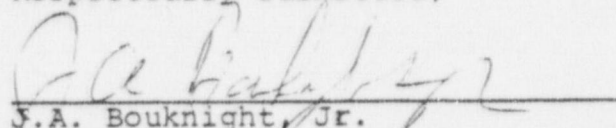
26. Describe each condition to Houston's license which the Staff seeks or will seek if it is ultimately determined that the granting of the license to Houston would create or maintain a situation inconsistent with the antitrust laws.

27. Except as otherwise disclosed in answer to this discovery request, state whether the information furnished is within the personal knowledge of the affiant answering the interrogatories, and, if not, the name, address, occupation and title of each person to whom the information is a matter of personal knowledge, if known, or from whom information was obtained upon which said answer or a part thereof was based.

Respectfully submitted,

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Dated: October 17, 1978

Dated at Washington, District of Columbia
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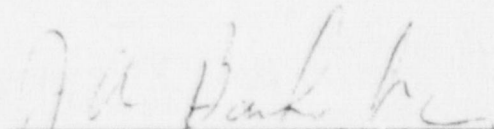
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