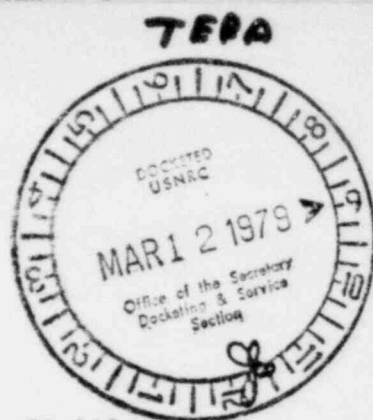


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of)
)
HOUSTON LIGHTING & POWER COMPANY, ET AL.)
)
(South Texas Project,)
Units 1 and 2))
)
TEXAS UTILITIES GENERATING COMPANY)
)
(Comanche Peak Steam Electric Station,)
Units 1 and 2))

Docket Nos. 50-498A
50-499A

Docket Nos. 50-445A
50-446A

ORDER CONCERNING TUGCO'S MOTION FOR PROTECTIVE ORDER REGARDING
DEPARTMENT'S DISCOVERY REQUESTS, AND DEPARTMENT'S
MOTION TO COMPEL FULLER RESPONSES

(March 9, 1979)

I.

Texas Utilities Generating Company (TUGCO) on January 12, 1979 filed it objections to and motions for protective orders regarding certain interrogatories and requests for production of documents, filed by the Department of Justice (Department) on November 22, 1978. The Department's response was filed on February 6, 1979. TUGCO's objections will be considered seriatim.

Some of these objections are similar to those the Board has previously ruled on in its Order Regarding Motion of Department of Justice To Compel Austin to Provide Fuller Responses, dated February 28, 1979 [LBP-79-5, 9 NRC ___] (Austin Order), and in Order Concerning Houston Lighting and Power Company's Motion for Protective Order Regarding Department's Discovery Request, dated March 6, 1979 (HL&P Order).

Where the reasoning in our prior orders is equally applicable to the instant objections, it will not be repeated at length.

TUGCO objects to Definition A.3 because it requires the identification of documents already furnished to the Department. This objection is denied (HL&P Order, pp. 1-2).

Definition A.8 provides that requests concerning a subject or item include possible or contemplated actions as to such subject or item. This definition would require a reasonable inquiry of those persons likely to possess relevant knowledge or information concerning contemplated actions, and the objection is denied.

Instruction C pertains to assertions of privilege. Prior claims of privilege in other proceedings may not be excepted from TUGCO's responses. However, such documents shall not be delivered to the Board, but the parties shall follow the procedure described in the HL&P Order, p. 3.

Objections to General Instruction E.1 are denied, for the reasons referred to in our ruling on Definition A.3, supra, and HL&P Order, pp.1-2.

Interrogatory 3 asks the party to "describe in detail" certain factors, reasons and the like. This is a usual and customary phrase in written interrogatories which has been used by most of the parties to this and other proceedings. It is deemed proper, and the objection is overruled.

Interrogatory 4 asks TUGCO to describe the underlying policies or bases for its alleged refusal to engage in the interstate transmission of electricity, "in order of their relative importance." TUGCO should not be required to rank its reasons or weight policies covering many aspects over an extended period of time. The objection to the ranking requirement of this interrogatory is sustained.

Interrogatory 7 asks for the identification of every occasion when TUGCO either opened or threatened to open certain interconnections. In context, the term "threats" is not deemed to be argumentative, and the objection is denied.

Interrogatory 9 requires only a good faith effort to respond in a reasonably complete manner. The objection is overruled.

Interrogatory 16, may be answered in a reasonable time as required to collect rather extensive information. The parties shall confer and endeavor to agree upon a reasonable time extension for this purpose.

The objections to Interrogatory 20 are denied for the reasons set forth in this Order regarding Definition A.3, Instruction E.1, Interrogatory 9, and HL&P Order, pp. 1-2.

It is contended that Interrogatory 21 is covered by discovery and testimony in District Court litigation. This is an insufficient answer, as we have previously indicated supra and in HL&P Order, pp. 1-2. The objection is denied.

Only good faith efforts to respond in a reasonably complete manner are required of TUGCO by Interrogatory 23, and its objections are overruled.

Interrogatory 25 asks for details of how a policy to operate exclusively in intrastate commerce has affected the operations of TUGCO. This interrogatory asks for underlying facts, and it is not deemed to be argumentative or impermissibly hypothetical. The objections are denied.

II.

The Department filed a motion to compel TUGCO to provide fuller responses to the first set of interrogatories on February 6, 1979. TUGCO responded to the Department's motion on March 2, 1979.

For reasons set forth in the Austin Order, pp. 1-2 (LBP-79-5, 9 NRC ___), we deny the Department's request that the Board direct TUGCO to make another search of its files, or direct counsel to file an affidavit of search efforts.

Certain responses previously filed by TUGCO are not the direct, full and complete responses to interrogatories contemplated by our rules and discovery practice. TUGCO is directed to file adequate responses to Interrogatories 2(a) and (b), 3 (a), 4, 7, 9, 12, 14, 15, 16, 20, 21, 23 and 25. Mere references to other trial testimony, depositions and the like are not sufficient for this purpose. The Department's motion to

compel fuller responses to these designated interrogatories is granted.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Marshall E. Miller
Marshall E. Miller, Chairman

Dated at Bethesda, Maryland
this 9th day of March 1979.