LAW OFFICES
LOWENSTEIN, NEWMAN, REIS, AXELRAD & TOLL
1025 CONNECTICUT AVENUE, N. W.
WASHINGTON, D.C. 20036
202 · 862-8400

ROBERT LOWENSTEIN
JACK R. NEWMAN
HAROLD F. REIS
MAURICE AXELRAD
DAVID R. TOLL
KATHLEEN H. SHEA
J. A. BOUKNIGHT, JR.

E. GREGORY BARNES
MICHAEL A. BAUSER
DEBORAH L. BERNSTEIN
ALBERT V. CARR, JR.
ROBERT H. CULP
PETER G. FLYNN
WILLIAM J. FRANKLIN
FREDERIC S. GRAY
DOUGLAS G. GREEN

March 21, 1980

DOCKETED
USNRC
MAR 24 1980
Office of the Secretary
Docketing & Service
Branch

HAND DELIVER

Marshall E. Miller, Esquire
Michael L. Glaser, Esquire
Sheldon J. Wolfe, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), Docket Nos. 50-498A-50-499A; Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445A-50-446A

Gentlemen:

While Houston Lighting & Power Company elected not to submit comments to the Board on the question of consolidation, there is a matter raised in the comments submitted by the NRC Staff ("Staff") and Central and Southwest Corporation ("C&SW") which warrants a brief response.

Both the Staff and C&SW predicate their argument for severance in large part on the grounds that Houston intends to rely on a study performed by Stagg Systems, Inc. and that analysis of this study will require such an extraordinary amount of time that moving forward with a consolidated proceeding is undesirable. The Board should be apprised that Staff's and C&SW's contentions are based on a misconception. Houston does not intend to sponsor or rely on the Stagg Study as part of its defense in this proceeding.

8004160111

Indeed, as Staff notes correctly: "Houston has maintained throughout discovery that Mr. Stagg of Stagg Systems, Inc. was an outside, non-testifying consultant." (Staff Views at 4.) That has been and remains his role in this case. We are truly at a loss to understand how work he has done could precipitate a severance of the proceeding. Mr. Stagg has not been designated as a witness, nor does any Houston witness in this proceeding intend to testify about or rely upon Mr. Stagg's study.

Evidently, the Staff and C&SW have misconstrued Houston's supplementary interrogatory answers filed February 27, 1980. Early in the case Houston received interrogatories requesting identification of all documents which analyze the effect of interstate operations on Houston's systems or which describe the policies or bases upon which Houston has justified its opposition to interstate operations.1/ Since then, Stagg Systems, Inc. completed in late December 1979, a study [Stagg Study II] for Houston's counsel which counsel determined should be submitted to the Securities and Exchange Commission in Docket No. 3-4951, a case which concerns C&SW's compliance with the Public Utility Holding Company Act of 1935. As that study has been published and relied upon in the SEC proceeding, a complete supplementary response to the aforesaid interrogatories required that the Stagg Study be identified. Houston, accordingly, did so.2/ Nothing more has transpired.

In short, Houston does not intend to call Mr. Stagg as a witness or rely on the Stagg Study in this proceeding, and the matters raised by the Staff and C&SW are simply based on a misapprehension. With this question resolved, comment upon the extraordinary amounts of time the Staff and C&SW suggest they would need to refute the Stagg Study is unnecessary.3/

1/ CP&L Ints. (First Set) No. 9; Department of Justice Ints. (First Set) No. 4.

2/ As far back as March 28, 1979, Houston similarly identified a previous Stagg Systems, Inc. study [Stagg Study I] in response to other interrogatories, HL&P's Ans. to CP&L Ints. (Second Set) No. 25(b). No one suggested then that the existence of such consultant studies had the slightest effect on the structure of this proceeding, the course of discovery, or any issue herein.

3/ Indeed, since Houston's hearing presentation presumably will follow at least the Staff's, the Department's and C&SW's and

[footnote continued on next page]

Respectfully submitted,

Douglas G. Green
Counsel for Houston Lighting
& Power Company

DGG/nm

cc: Service List

[footnote continued from previous page]

3/ will not commence for some time, those parties would plainly have ample time to address this study even if Houston were relying on it. Since Houston is not, the issue never arises.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
HOUSTON LIGHTING & POWER COMPANY, et al.	)	Docket Nos. 50-498A 50-499A
	)	
(South Texas Project, Units 1 and 2)	)	
	)	
TEXAS UTILITIES GENERATING COMPANY et al.	)	Docket Nos. 50-445A 50-446A
	)	
(Comanche Peak Steam Electric Station, Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing:

Letter to Marshall E. Miller,
Michael L. Glaser and Sheldon J. Wolfe

were served upon the following persons, by hand *, or by deposit in the United States Mail, first class postage prepaid, this 21st day of March 1980.

DOCKETED
USNRC
MAR 24 1980
Office of the Secretary
Docketing & Service
Branch

*Marshall E. Miller, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

*Michael L. Glaser, Esquire
1150 17th Street, N.W.
Washington, D.C. 20555

*Sheldon J. Wolfe, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Chase R. Stephens, Supervisor (20)
Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Jerome D. Saltzman
Chief, Antitrust and Indemnity
Group
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

J. Irion Worsham, Esquire
Merlyn D. Sampels, Esquire
Spencer C. Relyea, Esquire
Worsham, Forsyth & Sampels
2001 Bryan Tower, Suite 2500
Dallas, Texas 75201

Jon C. Wood, Esquire
Matthews, Nowlin, Macfarlane
& Barrett
1500 Alamo National Building
San Antonio, Texas 78205

Charles G. Thrash, Jr., Esquire
E.W. Barnett, Esquire
Theodore F. Weiss, Esquire
J. Gregory Copeland, Esquire
Baker & Botts
3000 One Shell Plaza
Houston, Texas 77002

R. Gordon Gooch, Esquire
Steven R. Hunsicker, Esquire
Baker & Botts
1701 Pennsylvania Avenue
Washington, D.C. 20006

Frederic D. Chanania, Esquire
Michael B. Blume, Esquire
Ann P. Hodgdon, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Roff Hardy
Chairman and Chief Executive
Officer
Central Power and Light Company
Post Office Box 2121
Corpus Christi, Texas 78403

G.K. Spruce, General Manager
City Public Service Board
Post Office Box 1771
San Antonio, Texas 78203

Mr. Perry G. Brittain
President
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

G.W. Oprea, Jr.
Executive Vice President
Houston Lighting & Power Company
Post Office Box 1700
Houston, Texas 77001

R.L. Hancock, Director
City of Austin Electric Utility
Post Office Box 1086
Austin, Texas 78767

Joseph Gallo, Esquire
Robert H. Loeffler, Esquire
David M. Stahl, Esquire
Isham, Lincoln & Beale
1120 Connecticut Avenue, Suite 325
Washington, D.C. 20036

Michael I. Miller, Esquire
James A. Carney, Esquire
Sarah Welling, Esquire
Martha E. Gibbs, Esquire
Isham, Lincoln & Beale
One First National Plaza
Suite 4200
Chicago, Illinois 60603

Don R. Butler, Esquire
211 East Seventh Street
Austin, Texas 78701

Mr. William C. Price
Central Power & Light Company
Post Office Box 2121
Corpus Christi, Texas 78403

Mr. G. Holman King
West Texas Utilities Company
Post Office Box 841
Abilene, Texas 79604

Jerry L. Harris, Esquire
Richard C. Balough, Esquire
City of Austin
Post Office Box 1088
Austin, Texas 78767

Joseph B. Knotts, Jr., Esquire
Nicholas S. Reynolds, Esquire
C. Dennis Ahearn, Esquire
Debevoise & Liberman
1200 Seventeenth Street, N.W.
Washington, D.C. 20036

Don H. Davidson
City Manager
City of Austin
P.O. Box 1088
Austin, Texas 78767

Jay Galt, Esquire
Looney, Nichols, Johnson & Hays
219 Couch Drive
Oklahoma City, Oklahoma 73102

Knolant J. Plucknett
Executive Director
Committee on Power for the Southwest, Inc.
5541 East Skelly Drive
Tulsa, Oklahoma 74135

John W. Davidson, Esquire
Sawtell, Goode, Davidson & Tioili
1100 San Antonio Savings Building
San Antonio, Texas 78205

Douglas F. John, Esquire
McDermott, Will and Emery
1101 Connecticut Avenue, N.W.
Suite 1201
Washington, D.C. 20036

David A. Dopsovic, Esquire
Frederick H. Parmenter, Esquire
Susan B. Cyphert, Esquire
Nancy A. Luque, Esquire
Robert Fabrikant, Esquire
Energy Section Antitrust Division
U.S. Department of Justice
P.O. Box 14141
Washington, D.C. 20044

Morgan Hunter, Esquire
Bill D. St. Clair, Esquire
McGinnis, Lockridge & Kilgore
Fifth Floor
Texas State Bank Building
900 Congress Avenue
Austin, Texas 78701

W.S. Robson
General Manager
South Texas Electric Cooperative, Inc.
Route 6, Building 102
Victoria Regional Airport
Victoria, Texas 77901

Robert C. McDiarmid, Esquire
George Spiegel, Esquire
Robert A. Jablon, Esquire
Marc R. Poirier, Esquire
Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Suite 312
Washington, D.C. 20037

Kevin B. Pratt
Texas Attorney General's Office
Post Office Box 12548
Austin, Texas 78711

William H. Burchette, Esquire
Frederick H. Ritts, Esquire
Law Offices of Northcutt Ely
Watergate 600 Building
Washington, D.C. 20036

Tom W. Gregg, Esquire
Post Office Box Drawer 1032
San Angelo, Texas 76902

Leland F. Leatherman, Esquire
McMath, Leatherman & Woods, P.A.
711 West Third Street
Little Rock, Arkansas 72201

Paul W. Eaton, Jr., Esquire
Hinkle, Cox, Eaton, Coffield & Hensley
600 Henkle Building
Post Office Box 10
Roswell, New Mexico 88201

Robert M. Rader, Esquire
Conner, Moore & Corber
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

W.N. Woolsey, Esquire
Kleberg, Dyer, Redford & Weil
1030 Petroleum Tower
Corpus Christi, Texas 78474

Donald M. Clements, Esquire
Gulf States Utilities Company
Post Office Box 2951
Beaumont, Texas 77704

Dick Terrell Brown, Esquire
800 Milam Building
San Antonio, Texas 78205