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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

July 24, 1980

Michael I. Miller, Esq.
Isham, Lincoln & Beale
4200 One First National Plaza
Chicago, Illinois 60603

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

Dear Mr. Miller:

I have enclosed herewith the NRC Staff's proposed set of license conditions for settlement of the South Texas antitrust licensing proceeding. These proposed conditions, and in particular the sections on transmission, are to be read together with the Transmission Services Settlement Agreement which I previously sent to you. The NRC Staff remains willing to consider and discuss specific comments that Central Power & Light Company and Central & South West Corporation might have on the proposed settlement conditions and the Transmission Services Settlement Agreement. The NRC Staff is searching for the best way to arrive at a final agreement on South Texas settlement license conditions, and is willing to explore any reasonable avenues with you. As part of the overall settlement of South Texas, the NRC Staff would also expect that Central & South West Corporation execute a letter of commitment, on behalf of itself and its operating company subsidiaries, to abide by and implement the attached proposed South Texas settlement conditions.

In light of the latest prehearing conference order of the Board and the time pressures occasioned thereby, the NRC Staff would appreciate a response from you as soon as possible. Thank you very much for your prompt attention.

Sincerely,

Fredric D. Chananian
Counsel for NRC Staff

Enclosure:
As stated above

cc: Robert Fabrikant, Esq.
Marc Poirier, Esq.
Douglas F. John, Esq.
J. Gregory Copeland, Esq.
Richard C. Balough, Esq.
Jon C. Wood, Esq.

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LICENSE CONDITIONS FOR SOUTH TEXAS PROJECT
UNITS NOS. 1 AND 2

- I. A. The following definitions apply to paragraph I.B:
- (1) "Applicants" means severally and jointly Houston Lighting and Power Company (HLP), Central Power and Light Company (CPL), Community Public Service Board of San Antonio (CPSB), and the City of Austin Electric Utility Department (COA) and any of their respective successors engaged in the generation, transmission or the distribution of electric power. Where a license condition is directed to a specific Applicant, that Applicant is identified.
 - (2) "South Texas Area" means Applicants' service areas and adjacent areas.
 - (3) "Entity" means an electric utility which is a person, a private or public corporation, a governmental agency or authority, a municipality, a cooperative, or an association of any of the foregoing, owning or operating or proposing in good faith to own or operate facilities for generation, transmission or distribution of electric power and energy.
 - (4) "Bulk Power" means the electric power and attendant energy supplied or made available at transmission or subtransmission voltages.
 - (5) "Costs" means all appropriate operating and maintenance expenses and all ownership costs where applicable.
 - (6) The terms "connection" and "interconnection" are used interchangeably.
- B. The Applicants defined in Paragraph I.A.(1) are subject to the following antitrust conditions:
- (1) CPL shall afford to the Public Utilities Board of the City of Brownsville a reasonable opportunity to participate in the South Texas Project, Units 1 and 2, up to a 50 MW ownership interest in such units on reasonable terms and conditions and on a basis that will fully compensate CPL for its actual costs. CPL shall afford Brownsville reasonable transmission arrangements to enable it to obtain delivery of power from the South Texas Project.

- (2) The Applicants, as long as they are members of the Texas Interconnected System (TIS), shall support requests by Entities in the South Texas Area having generation capacity for membership in TIS. The Applicants shall also propose and actively support, as long as they are members thereof, the creation of one or more additional classifications of TIS membership (which may include non-voting membership for entities having no generation capacity) based on non-discriminatory criteria to afford access to data, studies and recommendations to all Entities in the South Texas Area who desire membership. The Applicants will also support requests by Entities in the South Texas Area for membership in any other electric utility planning organization or power pool of which the Applicants are members. The Applicants shall share information with other Entities with respect to, and shall conduct with other such Entities through any electric utility planning organizations of which the Applicants are members, joint studies and planning of future generation, transmission and related facilities; provided, however, that this condition shall not obligate the Applicants to conduct such joint studies or joint planning unless (1) the studies or planning are requested and carried out in good faith and based on reasonably realistic and reasonably complete data or projections, (2) the studies or planning are reasonably justified on the basis of sound engineering principles, (3) appropriate protection is accorded proprietary or other confidential business and financial information, and (4) the costs for such studies or planning are allocated on a fair and equitable basis.
- (3) The Applicants shall participate in and facilitate the exchange of bulk power by transmission over the Applicants' transmission facilities between or among two or more Entities in the South Texas Area with which the Applicants are connected; and any such Entity(ies) and any Entity(ies) engaging in bulk power supply outside the South Texas Area between whose facilities the Applicants' transmission lines and other transmission lines would form a continuous electrical path, provided that (i) permission to utilize such other transmission lines has been obtained by the proponent of the arrangement, and (ii) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate the Applicants for their costs including a reasonable return on investment; provided however that such transmission services and the rates to be charged therefor shall be subject to the jurisdiction of the appropriate regulatory agency(ies). Applicants shall file with such appropriate regulatory agency(ies) a rate or rates for such transmission services, which rate(s) shall become effective immediately and

which shall be collected subject to refund pending the outcome of any regulatory proceeding on that rate(s). The Applicants shall not refuse to provide such transmission services merely because the rate(s) to be charged therefor are the subject of dispute before such regulatory agency(ies). Unless otherwise required by paragraph (6) below, such rate(s) shall be filed as soon as practicable but no later than the date of issuance of the South Texas operating license or the FERC Order in Docket No. EL79-8, whichever occurs first. Any Entity(ies) requesting such transmission arrangements shall give reasonable advance notice of its (their) schedule and requirements. The Applicants shall not be required to enter into any arrangement which would unreasonably impair system reliability or emergency transmission capacity.

- (4) The Applicants shall include in their planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraph I.B.(3), above, provided any Entity(ies) in the South Texas Area gives the Applicants sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and that such Entity(ies) fully compensates the Applicants for their costs including a reasonable return on investment. The Applicants shall not be required to construct transmission facilities if construction of such facilities is infeasible, or if their costs in connection therewith would exceed their benefits therefrom, or if such would unreasonably impair system reliability or emergency transmission capacity. In connection with the performance of their obligations above, the Applicants shall not be foreclosed from requiring a reasonable contribution in aid of construction or from making arrangements for coordinated construction of future transmission lines such that each of the parties to the transaction would own an interest in or a segment of the transmission addition in proportion to its share of the cost of the addition. Any such contribution made in aid of construction or ownership interest shall also be properly credited as an offset to any wheeling charges. If the Applicants engage in joint ownership of transmission lines with any other Entity, they shall not refuse to engage in similar transactions in comparable circumstances with other Entities, subject to the provisions limiting the Applicants' obligations above.
- (5) Central Power & Light shall, upon reasonable advance notice, sell full and partial requirements bulk power to requesting Entities in and adjacent to its service area under reasonable terms and conditions which shall provide for recovery of

Applicant's costs, including a reasonable return on investment. Applicant shall not be required to make any such sale if it does not have available sufficient bulk power or adequate transmission to provide the requested service or if the sale would impair its ability to render adequate and reliable service to its own customers or its ability to discharge prior commitments.

- (6) Applicants shall use their best efforts to obtain approval by the Federal Energy Regulatory Commission ("FERC") of CPL's Amended Interconnections Application in Docket No. EL 79-8 dated June 27, 1980, as modified by the substitution of the Transmission Service Settlement Agreement dated July 2, 1980, for paragraph 9 of the Amended Application and for paragraph g of the Prayer for Relief in the Amended Application. Applicants, unless ordered otherwise by the FERC, shall themselves provide transmission services to, from, and over the proposed DC Interconnections at a reasonable, single rate consistent with the Transmission Service Settlement Agreement. Applicants shall also use their best efforts to obtain any necessary approval of the proposed DC Interconnections before the Texas Public Utility Commission and any other forum where actions must be taken. CPL and HLP shall use their best efforts to construct the proposed DC Interconnections in accordance with any final order of the FERC or other regulatory authority, and shall have the DC Interconnections in operation five (5) years after the last regulatory approval necessary to begin construction has been obtained, subject to reasonable extensions of time for good cause shown.
- (7) Applicants shall make a minimum of fifteen (15) percent of the DC Interconnections which are the subject of FERC Docket No. EL 79-8 available for transmission service in a manner consistent with paragraph I.F.(8) of the Transmission Services Settlement Agreement.
- (8) In connection with the performance of their obligations above and subject to the provisions hereinafter set forth, the Applicants shall not disconnect from or refuse to connect their then-existing or proposed facilities with the facilities of any Entity used or proposed to be used for the transmission of electric energy in interstate commerce by reason of the interstate character of such facilities, and the Applicants will not prevent any Entity with which they maintain connections from establishing, maintaining or modifying a connection with facilities used or proposed to be used for the transmission of electric energy in interstate commerce by reason of the interstate character of such facilities, provided that, anything in these license conditions to the

contrary notwithstanding, any Entity seeking to establish, maintain or modify any connection which could affect the nonjurisdictional status of the Applicants under the Federal Power Act shall have filed an application with and used its best efforts to obtain an order from the FERC, applicable to the Applicants under Sections 210, 211 and 212 of such Act, requiring the establishment, maintenance or modification of such connection. In the event that the only significant issue in the ensuing proceeding relates to the Applicants' desire to maintain their exemption from jurisdiction under the Federal Power Act, the Applicants agree that they will not unreasonably oppose any such application and agree to pay such Entity's^{1/} reasonable expenses in connection with such application. In the event such application is denied by a valid order of the FERC, any continuing refusal by the Applicants to establish, maintain or modify such connection with such Entity shall be subject to review by the NRC in accordance with the Atomic Energy Act of 1954, as amended, and the rules and regulations thereunder, to determine whether any such refusal would create or maintain a situation inconsistent with the antitrust laws or the policies thereunder in accordance with the standards set forth in Section 105 of such Act; provided that all factual determinations by the FERC on any cost or system reliability reason(s) for any such refusal shall not be subject to redetermination by the NRC. The burden of proof will be on the Applicants in such NRC proceeding.

- (9) The Applicants will, in accordance with applicable law, afford ownership participation in future nuclear generating facilities and future DC interconnections which they may construct, own, or operate on conditions similar to the foregoing.
- (10) The foregoing conditions shall be implemented (1) in a manner consistent with applicable Federal, state and local statutes and regulations, and (2) subject to any regulatory agency having jurisdiction. Nothing herein shall preclude the Applicants from seeking an exemption or other relief to which they may be entitled under applicable law or shall be construed as a waiver of their right to contest the applicability of the license conditions with respect to any factual situation.

^{1/} This provision shall not obligate HLP, CPSB, and COA or any other licensee of the South Texas Project to pay the expenses of Central & Southwest Corporation or any of its subsidiaries with respect to FERC Docket No. EL79-8.