

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Marshall E. Miller, Chairman
Sheldon J. Wolfe
Michael L. Glaser



CLERKED

DEC 29 1980

In the Matter of

HOUSTON LIGHTING & POWER COMPANY, et al.

(South Texas Project,
Units 1 and 2)

TEXAS UTILITIES GENERATING COMPANY, et al.

(Comanche Peak Steam Electric Station,
Units 1 and 2)

Docket Nos. 50-498A
50-499A

Docket Nos. 50-445A
50-446A

December 24, 1980

ORDER

(Granting Leave to File Conformed
Settlement License Conditions)

A motion for leave to file a conformed set of proposed license conditions was filed on December 22, 1980, by the following parties: NRC Staff, Department of Justice, Texas Utilities Company, Houston Lighting & Power Company, Central Power & Light Company, City Public Service Board of San Antonio, City of Austin, and Tex-La Electric Cooperative of Texas, Inc.

The following corrections were also made by these parties to the proposed settlement license conditions submitted on September 15, 1980:

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A. Errata in Comanche Peak Conditions

1. Page 1,^{*} Paragraph D.(1)(c), line 3: after "owning" delete the "or" and insert a comma;
2. Page 1, Paragraph D.(1)(c), line 4: after "own" delete the "or" and insert a comma;
3. Page 6, Paragraph D.(2)(1)(b), lines 3-4: "an exemption from jurisdiction" should read "a non-jurisdictional status";
4. Page 6, Paragraph D.(2)(1)(c), line 3: "their exemption from jurisdiction" should read "their non-jurisdictional status";
5. Page 7, Paragraph D.(2)(1)(c), lines 5-6: "their exemption from jurisdiction" should read "their nonjurisdictional status";
6. Page 7, Paragraph D.(2)(m), line 3: "paragraph" should read "paragraphs".

B. Errata in South Texas Conditions

1. Page 1, Paragraph I.A.(3), line 4: after "cooperative," the possibly illegible word is "or";
2. Page 1, Paragraph I.A.(3), line 6: after "controlling" insert a comma;
3. Page 6, Paragraph I.B.(6)(a), line 15: "reasons" should read "reason";
4. Page 7, Paragraph I.B.(6)(a), line 10: "denied" should read "denied";
5. Page 7, Paragraph I.B.(6)(b), line 2: "another Entity" should read "any other Entity(ies)";
6. Page 7, Paragraph I.B.(6)(b), line 3: "any other" should read "another";
7. Page 7, Paragraph I.B.(6)(b), line 5: "an exemption from jurisdiction" should read "a nonjurisdictional status";

^{*}/ Page numbers refer to those pages in the settlement conditions already submitted to the Board on September 15, 1980.

8. Page 7, Paragraph I.B.(6)(c), line 4: "its exemption from jurisdiction" should read "its non-jurisdictional status";
9. Page 8, Paragraph I.B.(6)(c), line 2: "1/" should read "2/", with corresponding change in footnote at bottom of page 8;
10. Page 8, Paragraph I.B.(6)(c), line 10: "reasons" should read "reason";
11. Page 8, Paragraph I.B.(6)(c), line 11: "its exemption from jurisdiction" should read "its non-jurisdictional status."

ORDER

Good cause having been shown to make the foregoing corrections and to file the conformed set of proposed license conditions, and based upon a consideration of the entire record in this matter, it is, this 24th day of December 1980,

ORDERED

That the motion of the parties to file the attached conformed set of proposed license conditions is granted, and the corrections to the September 15, 1980 proposed license conditions are adopted.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Marshall E. Miller
Administrative Judge

LICENSE CONDITIONS FOR COMANCHE PEAK STEAM ELECTRIC STATION UNITS 1 AND 2

- D. (1) The following definitions apply to paragraph 3.D.(2):
- (a) "Applicants" means severally and jointly Texas Utilities Generating Company, Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Company and each other subsidiary, affiliate or successor company now or hereafter engaged in the generation, transmission and/or the distribution of electric power in the State of Texas.
 - (b) "North Texas Area" means the following Texas counties: Anderson, Andrews, Angelina, Archer, Bastrop, Baylor, Bell, Borden, Bosque, Brown, Burnet, Cherokee, Clay, Coke, Collin, Comanche, Cooke, Coryell, Crane, Culberson, Dallas, Dawson, Delta, Denton, Eastland, Ector, Ellis, Erath, Falls, Fannin, Fisher, Freestone, Gaines, Glasscock, Grayson, Henderson, Hill, Hood, Hopkins, Houston, Howard, Hunt, Jack, Johnson, Kaufman, Kent, Lamar, Lampasas, Leon, Limestone, Loving, Lynn, Martin, McLennan, Midland, Milam, Mitchell, Montague, Nacogdoches, Navarro, Nolan, Palo Pinto, Parker, Pecos, Rains, Reagan, Red River, Reeves, Rockwall, Rusk, Scurry, Schackelford, Smith, Somervell, Stephens, Sterling, Tarrant, Terry, Tom Green, Travis, Upton, Van Zandt, Ward, Wichita, Wilbarger, Williamson, Winkler, Wise, Wood, and Young.
 - (c) "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 owning, operating or contractually controlling, or proposing in good faith to own, operate or contractually control, facilities for generation of electric power and energy; provided, however, that as used in paragraphs 3.D.(2)(a), 3.D.(2)(b), 3.D.(2)(g), 3.D.(2)(i), 3.D.(2)(j)(a) and (b), 3.D.(2)(k), 3.D.(2)(l) and 3.D.(2)(m), "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 owning or operating, or proposing in good faith to own or operate, facilities for generation, transmission and/or distribution of electric power and energy.
 - (d) "Entity in the North Texas Area" means an Entity which owns or operates facilities for the generation, transmission and/or distribution of electric power in any area within the North Texas Area.

- (e) "Bulk Power" means the electric power and/or electric energy supplied or made available at transmission or subtransmission voltages.
 - (f) "Costs" means all appropriate operating and maintenance expenses and all ownership costs where applicable.
 - (g) The terms "connection" and "interconnection" are used interchangeably.
- (2) The Applicants defined in Paragraph 3.D.(1)(a) are subject to the following antitrust conditions:
- (a) The Applicants shall afford an opportunity to participate in the Comanche Peak Steam Electric Station, Units 1 and 2, for the term of the instant license, or any extension or renewal thereof, to any Entity(ies) in the North Texas Area making a timely request therefor, through a reasonable ownership interest in such unit(s) on reasonable terms and conditions and on a basis that will fully compensate Applicants for their costs. It is understood that any request received prior to December 1, 1973, shall be deemed to be timely. In connection with such participation, the Applicants also will interconnect with and offer transmission service as may be required for delivery of such power to such Entity(ies) at a point or points on the Applicants' system on a basis that will fully compensate the Applicants for their costs including a reasonable return on investment. Notwithstanding the December 1, 1973 date appearing hereinabove, the Applicants' offer of participation in Comanche Peak, Units 1 and 2, to Tex-La Electric Cooperative of Texas, Inc. shall not obligate the Applicants, by virtue of such offer, to offer an opportunity to participate in Comanche Peak, Units 1 and 2, to any other Entity.
 - (b) The Applicants, as long as they are members of the Texas Interconnected Systems (TIS), shall support reasonable requests by Entities in the North Texas Area having generating 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 based on non-discriminatory criteria to afford access to data, studies and recommendations to all Entities in the North Texas area who desire membership. The Applicants shall also support requests by qualified Entities in the North Texas Area for membership in any other electric utility planning or operating organization or of which the Applicants are members (other than one involving only the Applicants). The Applicants shall share information with other Entities

with respect to, and shall, with other such entities through any electric utility planning organizations (other than one involving only the Applicants) of which the Applicants are members, conduct and/or participate in joint studies and planning of future generation, transmission and related facilities; provided, however, this condition shall not obligate the Applicants to conduct or participate in such joint studies or joint planning unless (1) the studies or planning are requested and conducted in good faith and are 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.

- (c) The Applicants will connect with, coordinate reserves, and sell, purchase or exchange emergency and/or scheduled maintenance bulk power with any Entity(ies) in the North Texas Area on terms that will provide for the Applicants' costs, including a reasonable return on investment, in connection therewith and allow such Entity(ies) full access to the benefits of such reserve coordination.
- (d) Emergency service and/or scheduled maintenance service to be provided by each party shall be furnished to the fullest extent available from the supplying party and desired by the party in need. If requested, Applicants shall exchange maintenance schedules with any Entity in the North Texas Area. The Applicants and each such Entity(ies) shall provide to the other emergency service and/or scheduled maintenance service if and when available to the extent they can do so without unreasonably impairing service to their customers including other electric systems to whom they have firm commitments. Any curtailment or refusal to provide such emergency and/or scheduled maintenance service shall be on a non-discriminatory basis.
- (e) The Applicants and the other party(ies) to a reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be installed and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties in accordance with good industry practice as developed in the area. Unless otherwise agreed upon, minimum reserve requirements shall be calculated as a percentage of each party's estimated net peak load demand (taking into account firm

sales and firm purchases). No party to the arrangement shall be required to maintain greater reserves than the percentage which results from the aforesaid calculation. The reliability of power delivered into TIS-ERCOT over DC asynchronous connections shall not be treated differently by the Applicants, for purposes of spinning and installed reserve calculations and requirements, than would be the case if such power originated within TIS-ERCOT. Outages on DC asynchronous connections shall be treated by the Applicants the same as losses of generation within TIS-ERCOT. The Applicants agree to support the adoption of principles involving DC asynchronous connections contained in this paragraph within any TIS or ERCOT organization.

- (f) The parties to such a reserve sharing arrangement shall provide such amounts of spinning reserves as may be equitable and adequate to avoid the imposition of unreasonable demands on the other party(ies) in meeting the normal contingencies of operating its (their) system(s). However, in no circumstances shall such reserve requirement exceed the installed reserve requirement.
- (g) Interconnections with any Entity will not be limited to low voltages when higher voltages are requested and are available from the Applicants' installed facilities in the area where a connection is desired, when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected systems.
- (h) Interconnection and coordination agreements shall not embody any restrictive provisions pertaining to intersystem coordination. Good industry practice as developed in the area from time to time (if not unreasonably restrictive) will satisfy this provision.
- (i) 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 North Texas Area with which the Applicants are connected, and between any such Entity(ies) and any Entity(ies) outside the North Texas Area between whose facilities the Applicants' transmission lines and other transmission lines, including any direct current (asynchronous) transmission lines, form a continuous electrical path; provided, that (i) permission to utilize such other transmission lines has been requested by the proponent of the arrangement, (ii) the arrangements reasonably can be accommodated from a functional and technical

standpoint, and (iii) any Entity(ies) requesting such transmission arrangements shall have given Applicants reasonable advance notice of its (their) schedule and requirements. 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 any regulatory agency(ies) having jurisdiction thereof. The Applicants shall not refuse to provide such transmission service merely because the rates to be charged therefor are the subject of dispute with such Entity. The Applicants shall not be required to enter into any arrangement which would unreasonably impair system reliability or emergency transmission capacity, it being recognized that while some transmission may be operated fully loaded, other transmission may be for emergency use and operated either unloaded or partially loaded. (The foregoing applies to any Entity(ies) to which the Applicants may be connected in the future as well as those to which they are now connected).

- (j) (a) The Applicants shall include in their planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraphs (i) and (k), provided any Entity(ies) in the North 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 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 be properly credited in determining 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.

- (j) (b) Applicants shall provide other Entities with reasonable access to any future interstate interconnection facilities which Applicants may own, on terms and conditions comparable to the provisions of paragraph D.2(i) hereof, and subparagraph (a) of this paragraph.
- (k) The Applicants shall, upon reasonable advance notice, sell full and partial requirements bulk power to requesting Entities in the North Texas Area having, on the date of this license, non-aggregated generating capacity of less than 200 MW (including no generating capacity) under reasonable terms and conditions which shall provide for recovery of Applicants' costs, including a reasonable return on investment. The Applicants shall not be required to make any such sale if they do not have available sufficient bulk power or adequate transmission to provide the requested service or if the sale would impair their ability to render adequate and reliable service to their own customers or their ability to discharge prior commitments.
- (l) (a) In connection with the performance of their obligations herein and subject to the provisions of this paragraph, the Applicants will 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 connection from establishing, maintaining, modifying, or utilizing 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 (but subject to paragraph 1(b) and 1(d) below), any Entity seeking to establish, maintain, modify or utilize 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 Federal Energy Regulatory Commission, applicable to the Applicants under Sections 210, 211, and 212 of such Act, requiring the establishment, maintenance, modification or utilization of such connection. In the event that an Entity files an Application pursuant to this subparagraph, the Applicants agree that they will not unreasonably oppose any such application. In the event such application is denied by a valid order of the Federal Energy Regulatory Commission, any continuing

refusal by the Applicants to establish, maintain, modify or utilize 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.

- (b) Applicants shall not enter into or maintain any agreement or understanding with any other Entity(ies) to refuse to deal with another Entity(ies) with the purpose of maintaining a non-jurisdictional status under the Federal Power Act, and in the event that Applicants refuse to make an interconnection with or choose to disconnect from any Entity(ies), such decision and/or action by the Applicants will be undertaken unilaterally, not jointly, and without consultation with any other Entity(ies), provided, however, that after Applicants decide to undertake such action, they may notify any affected Entity.
- (c) In the event that an Entity files an application pursuant to subparagraph (a) of this paragraph solely by reason of Applicants' desire to maintain their non-jurisdictional status under the Federal Power Act, Applicants agree to pay such Entity's reasonable expenses in connection with such application and the ensuing proceeding,^{1/} provided, however, that Applicants shall not be required to pay for any expenses of such Entity if that Entity's application is denied by FERC for reasons advocated by Applicants at FERC, and provided further, that Applicants shall not be required to pay for any expenses of such Entity which that Entity would have incurred had it not filed an application solely by reason of Applicants' desire to maintain their non-jurisdictional status under the Federal Power Act.

^{1/} This obligation shall not apply to the expenses of the Central & South West Corporation or Houston Industries or any of their respective subsidiaries, including, but not limited to, the expenses of Central & South West Corporation and any of its subsidiaries incurred in FERC Docket No. EL79-8.

- (d) Nothing in these License Conditions shall impair the right of the Department of Justice or any other Entity, public or private, to file an antitrust action in any Federal Court in the event any Applicant refuses to establish, maintain, modify or utilize any connection with any Entity(ies), provided, that nothing herein shall preclude any Applicant from raising any legal or equitable defense that may be available to it.
- (m) Applicants agree to use their best efforts to amend any agreements with all Entities to ensure that such agreements are not inconsistent with paragraphs 3.D.(2)(1)(a) and (b) above.
- (n) The Applicants will, in accordance with applicable law, allow ownership participation in future nuclear generating facilities which they may construct, own, and operate in the State of Texas on conditions similar to these License Conditions.
- (o) Applicants shall use their best efforts to modify the Offer of Settlement filed in FERC Docket No. EL79-8 to include each of the undertakings set forth in the letter agreement among Applicants, Central & South West Corporation, Houston Lighting & Power Company and the FERC Staff dated September 11, 1980; Applicants shall thereafter use their best efforts to secure approval thereof by the FERC, and shall abide by any valid order(s) of the FERC issued pursuant to the Offer of Settlement. Nothing herein shall preclude the Department of Justice from instituting or intervening in any proceeding at FERC, including FERC Docket No. EL79-8, and from presenting such arguments and evidence that it deems appropriate.
- (p) The foregoing conditions shall be implemented i) in a manner consistent with applicable Federal, state and local statutes and regulations and ii) 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.

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), City Public Service Board of San Antonio (CPSE), and the City of Austin Electric Utility Department (COA) and any of their respective successors, assignees, or subsidiaries 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 (a) those counties in which Applicant's serve electric customers at wholesale or retail, and (b) those other areas, if any, surrounded by the areas in (a) above.
- (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, operating, or contractually controlling, or proposing in good faith to own, operate, or contractually control facilities for generation, transmission or distribution of electric power and energy for the purpose of providing electric utility service.
- (4) "Bulk Power" means the electric power and/or electric 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 ancitrust conditions:

- (1) (a) CPL shall afford to the Public Utilities Board of the City of Brownsville an opportunity to participate in the South Texas Project, Units 1 and 2, on reasonable terms and conditions and in accordance with the South Texas Project Participation Agreement and on a basis that will fully compensate CPL for its actual costs, provided that

Brownsville must enter into a firm commitment to acquire the ownership interest made available to it by the terms of this paragraph no later than January 1, 1983. The ownership interest which CPL shall make available to Brownsville shall be computed by multiplying CPL's Generation Entitlement Share in STP Units 1 and 2 by the ratio of Brownsville's peak demand for 1980 to CPL's peak demand for 1980. In the event Brownsville obtains an ownership interest from any Applicant other than CPL, the ownership interest which CPL must make available to Brownsville hereunder shall be reduced by one megawatt for each megawatt in excess of 12 megawatts that Brownsville acquires from other Applicants. Applicants shall not exercise any rights of first refusal over Brownsville's efforts to participate in the South Texas Project to the extent of the first 50 MW of such ownership share.

- (b) CPL shall afford Brownsville reasonable transmission services to enable it to obtain delivery of power from the STP, provided that CPL is fully compensated for its costs of such transmission services plus a reasonable return on investment, and provided further that in the event transmission capacity is not available to provide such transmission services, the provisions of Paragraph I.B.(4) hereof define the extent of the obligation which CPL has with respect to the construction of additional transmission facilities necessary to provide such transmission service.
 - (c) CPL will also afford all reasonable coordination services (including but not limited to reserve sharing, backup power, maintenance power and emergency power) necessary for Brownsville to have effective access to power from STP obtained from CPL, provided that CPL is fully compensated for its costs of providing such coordination services plus a reasonable return on investment.
 - (d) Each Applicant shall facilitate where necessary Brownsville's obtaining the participation interests and services specified in paragraphs 1(a), 1(b) and 1(c) above.
- (2) The Applicants, as long as they are members of the Texas Interconnected Systems (TIS) or any other organization which considers the planning for or operations of ERCOT-TIS electric utilities, shall support reasonable requests by Entities in the South Texas Area having generation capacity for membership in TIS or such other organizations. 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, 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 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 oblige 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) Each Applicant shall participate in and facilitate the exchange of bulk power by transmission over its own transmission facilities between or among two or more Entities in the South Texas Area with which the Applicant is connected; and between any such Entity(ies) and any Entity(ies) outside the South Texas Area between whose facilities the Applicant's transmission lines and other transmission lines, including direct current (asynchronous) transmission lines, form a continuous electrical path; provided, that (i) permission to utilize such other transmission lines has been requested by the proponent of the arrangement, (ii) the arrangements reasonably can be accommodated from a functional and technical standpoint, and (iii) any Entity(ies) requesting such transmission arrangements shall have given reasonable advance notice of its (their) schedule and requirements. Such transmission shall be on terms that fully compensate an Applicant for its 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). Where the rates to be charged are subject to the jurisdiction of an appropriate regulatory authority, the Applicants shall not refuse to provide such transmission services merely because the rate(s) to be charged therefor are the subject of dispute with such Entity(ies). An Applicant shall not be required to enter into any arrangement which would unreasonably impair system reliability or emergency transmission capacity, it being recognized that while some transmission may be operated fully loaded other transmission may be for emergency use and operated either unloaded or partially loaded.

- (4) Each Applicant shall include in its planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraph I.B.(3) (and I.B.(5) for CPL), provided any Entity(ies) in the South Texas Area gives an Applicant 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 an Applicant for its costs including a reasonable return on investment.^{1/} An Applicant shall not be required to construct transmission facilities if construction of such facilities is infeasible, or if such would unreasonably impair system reliability or emergency transmission capacity. In connection with the performance of the obligations above, an Applicant 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 in determining any wheeling charges. If an Applicant engages in joint ownership of transmission lines with any other Entity(ies), it shall not refuse to engage in similar transactions in comparable circumstances with other Entities, subject to the provisions limiting an Applicant's obligations above.
- (5) CPL shall, upon reasonable advance notice, enter into arrangements for the sale of full and partial requirements bulk power pursuant to a filed tariff to any requesting Entity having a non-aggregated generating capacity of 200 megawatts or less under reasonable terms and conditions which shall include a provision for CPL to recover its costs of providing such service plus a reasonable return on investment. Such tariff shall not require CPL to enter into any arrangement for such sale(s) if (a) it does not have available sufficient bulk power or adequate transmission to provide the requested service; or (b) the sale would impair CPL's ability to render adequate and reliable service to its own customers or its ability to discharge prior commitments. It is expressly recognized, and such tariff may reflect, that the determination whether sufficient bulk power or adequate transmission is available to accommodate a request for full or partial requirements bulk power will consider and recognize that (1) CPL will be engaging in

^{1/} Nothing in this paragraph shall require CPSB or COA to undertake any action(s) which may be contrary to any state constitutional provision.

centralized economic dispatch with its affiliates in accordance with, and pursuant to the requirements of, the Public Utility Holding Company Act of 1935, (2) pursuant to such requirements CPL may first utilize its generating and transmission capacity to accomplish such centralized economic dispatch before its generating and transmission capacity is made available for full or partial requirements bulk power sales under the tariff, and (3) if other CSW system capacity becomes available by reason of CPL's participation in such centralized economic dispatch, then such other CSW system capacity will, at the option of CSW, be made available in lieu of CPL's obligation to provide such capacity. Any curtailment of CPL's full or partial requirements sales shall be on a reasonable and non-discriminatory (where possible) basis.

- (6) (a) In connection with the performance of its obligations herein and subject to the provisions of this paragraph, HLP shall not disconnect from or refuse to connect its 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 HLP will not prevent any Entity with which it maintains connections from establishing, maintaining, modifying or utilizing 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 (but subject to subparagraphs 6(b) and 6(d) below) any Entity seeking to establish, maintain, modify or utilize any connection which could affect the nonjurisdictional status of HLP 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 HLP under Sections 210, 211 and 212 of such Act, requiring the establishment, maintenance, modification or utilization of such connection. In the event that an Entity files an application pursuant to this subparagraph, HLP agrees that it will not unreasonably oppose any such application. In the event such application is denied by a valid order of the FERC, any continuing refusal by HLP to establish, maintain, modify or utilize 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 HLP in such NRC proceeding.

- (b) HLP shall not enter into or maintain any agreement or understanding with any other Entity(ies) or Applicant to refuse to deal with another Entity(ies) or Applicant(s) with the purpose of maintaining a non-jurisdictional status under the Federal Power Act, and in the event that HLP refuses to make an interconnection with or chooses to disconnect from any Entity(ies), such decision and/or action by HLP will be undertaken unilaterally, not jointly, and without consultation with any other Entity(ies), provided, however, that after HLP decides to undertake such action, it may notify any affected Entity of its decision.
- (c) In the event that an Entity files an application pursuant to subparagraph (a) of this paragraph solely by reason of HLP's desire to maintain its non-jurisdictional status under the Federal Power Act, HLP agrees to pay such Entity's reasonable expenses in connection with such application and the ensuing proceeding,^{2/} provided, however, that HLP shall not be required to pay for any expenses of such Entity if that Entity's application is denied by FERC for reasons advocated by HLP at FERC, and provided further, that HLP shall not be required to pay for any costs or expenses of such Entity which that Entity would have incurred had it not filed an application solely by reason of HLP's desire to maintain its non-jurisdictional status under the Federal Power Act.
- (d) Nothing in these License Conditions shall impair the right of the Department of Justice or any other Entity, public or private, to file an antitrust action in any Federal Court in the event any Applicant refuses to establish, maintain, modify or utilize any connection with any Entity(ies), provided that nothing herein shall preclude any Applicant from raising any legal or equitable defense that may be available to it.

^{2/} This obligation shall not apply to the expenses of Central and South West Corporation or Texas Utilities Company or any of their respective subsidiaries, including but not limited to the expenses of CSW and any of its subsidiaries incurred in FERC Docket No. EL79-8.

- (7) HLP agrees to use its best efforts to amend any agreements with all Entities to ensure that such agreements are not inconsistent with paragraphs (6)(a) and (6)(b) hereof.
- (8) If Applicants participate in any future nuclear units other than those which are now under construction or for which an application for a construction permit has been filed, they will afford similar participation to Entities in the South Texas Area on a reasonable basis.
- (9) Applicants agree that the reliability of power delivered into TIS-ERCOT over DC asynchronous connections shall not be treated differently by the Applicants, for purposes of spinning and installed reserve calculations and requirements, than would be the case if such power originated within TIS-ERCOT. Outages on DC asynchronous connections shall be treated by the Applicants in the same way as losses of generation within TIS-ERCOT. Applicants agree to support the adoption of principles involving DC asynchronous connections contained in this paragraph within any TIS or ERCOT organization.
- (10) HLP and CPL shall use their best efforts to modify the Offer of Settlement filed in FERC Docket No. EL79-8 to include each of the undertakings set forth in the letter agreement among HLP, Central and South West Corporation, Texas Utilities Company and the FERC staff, dated September 11, 1980. HLP and CPL shall thereafter use their best efforts to secure approval thereof by the FERC, and shall abide by any valid order(s) of the FERC issued pursuant to the Offer of Settlement. Nothing herein shall preclude the Department of Justice from instituting or intervening in any proceeding at FERC, including Docket No. EL79-8, and from presenting such arguments and evidence that it deems appropriate.
- (11) 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.