

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of:	\$	
	\$	
HOUSTON LIGHTING & POWER	\$	NRC DOCKET NOS. 50-498A
COMPANY, THE CITY OF SAN	\$	50-499A
ANTONIO, THE CITY OF AUSTIN,	\$	
and CENTRAL POWER AND LIGHT	\$	
COMPANY	\$	
(South Texas Project, Unit	\$	
Nos. 1 and 2)	\$	
	\$	
TEXAS UTILITIES GENERATING	\$	NRC DOCKET NOS. 50-445A
COMPANY, <u>ET AL.</u>	\$	50-446A
(Comanche Peak Steam	\$	
Electric Station,	\$	
Unit Nos. 1 and 2)	\$	

STATUS REPORT OF
CENTRAL AND SOUTH WEST CORPORATION, ET AL.
ON STATUS OF SETTLEMENT NEGOTIATIONS

As previously reported to this Board, on June 9, 1980, Central and South West Corporation ("CSW") entered into a Settlement Agreement with Houston Lighting & Power Co. ("HLP") and the three operating electric utility subsidiaries of the Texas Utilities Company: Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co. (collectively "TUCS"). That Agreement provides generally for the construction and operation of direct current (dc) asynchronous interconnections between the Electric Reliability Council of Texas ("ERCOT") and the Southwest Power Pool ("SWPP"). The two dc interconnections would be constructed and operated only pursuant to an Order from the Federal Energy Regulatory Commission ("FERC") under the

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provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 U.S.C. §§824i, 824j and 824k, and pursuant to a determination by the Securities and Exchange Commission ("SEC") that the dc interconnections would permit the electric utility subsidiaries of CSW to be economically operated as a single integrated and coordinated holding company system under the provisions of the Public Utility Holding Company Act of 1935. (Proceedings under each of these statutes are currently in process before the FERC and the SEC.) Other necessary regulatory and judicial approval for the dc interconnections would have to be obtained as well.

After execution of the Settlement Agreement, and pursuant to Paragraph 4 thereof, CSW advised the Licensing Board that the entry of the aforementioned orders would "remove any concerns of CSW that the conduct of HLP or TUCS is or will create or maintain a situation inconsistent with the antitrust laws." CSW further agreed to conduct no further litigation against HLP and TUCS in these proceedings, but retained the right to participate in these proceedings if the contingencies relating to entry of the foregoing orders are not satisfied, as well as to rejoin these proceedings under certain other circumstances (as explained below).

Although neither FERC nor SEC has yet entered an order as described in the Settlement Agreement, CSW remains committed to the Settlement Agreement and the belief that

the Settlement Agreement is in the public interest, and is optimistic that those orders will be entered in the near future. Significant in this regard is the fact that CSW, HLP and TUCS, who jointly filed an Offer of Settlement in the FERC proceeding under PURPA, have now entered into a letter agreement, dated September 11, 1980, with the FERC Staff Counsel which contains commitments by CSW, HLP and TUCS to amend the Offer of Settlement as to such matters as access by third parties to the dc lines and wheeling rate methodology. This letter agreement provides that those commitments will permit the FERC Staff to support the Offer of Settlement and the entry of an Order requiring the construction and operation of the dc interconnections.

CSW and its subsidiary Central Power and Light Company ("CPL"), an Applicant in the South Texas Project (STP") proceeding, also report that they have reached agreement with the Nuclear Regulatory Commission Staff and the Department of Justice ("DOJ") on appropriate license conditions for STP Units 1 and 2, within the context of the overall settlement providing for the construction of dc interconnections.

At present, no overall settlement has been concluded between CSW and the Public Utilities Board of the City of Brownsville, Texas ("Brownsville") on issues which separate them. CSW believes, however, that the principal issues between Brownsville and CSW relate to the terms and

conditions for wheeling to, from and over the dc interconnections, wheeling by CPL for Brownsville wholly within ERCOT and access by Brownsville to an ownership interest in STP. This last matter is specifically addressed by the license conditions for STP (Paragraph IB(1)). The issues relating to wheeling are specifically addressed in the letter agreement amending the Offer of Settlement between CSW, HLP, TUCS and the FERC Staff referred to previously. Both the NRC Staff and the DOJ were involved in negotiations over the wheeling issues, and the license conditions for both STP and Comanche Peak require CSW, HLP and TUCS to use their best efforts to ensure that an Order will be entered by the FERC approving the Offer of Settlement as amended by the letter agreement containing the wheeling provisions. In short, those issues which separate CSW and Brownsville have all been specifically addressed in broader negotiations involving interested governmental agencies, and have been resolved by the license conditions which have been agreed upon.

Two further matters bearing on settlement need to be brought to the Licensing Board's attention. The Settlement Agreement provides that (1) CSW may elect to terminate the Settlement Agreement on October 9 or December 9, 1980, and resume its participation, to the extent it considers necessary, in this NRC proceeding; and (2) if FERC rejects the Offer of Settlement providing for the construction of

dc interconnections under PURPA, or fails to act on the Offer of Settlement by June 9, 1981, CSW has the right to have the NRC determine whether any subsequent refusal by HLP or TUCS to establish or maintain an interconnection with any CSW Company would create or maintain a situation inconsistent with the antitrust laws or policies thereunder in accordance with Section 105 of the Atomic Energy Act of 1954.

With regard to the first point, CSW assures the Board that it has no present intention of terminating the Settlement Agreement on either October 9 or December 9. However, it is possible (although not probable) that the situation in the FERC proceeding may change due to the arising of substantial opposition to the Offer of Settlement, as amended by the letter agreement. To date, there has been no indication of such opposition. In the unlikely event that it would appear that the FERC will not approve the Offer of Settlement, however, CSW could avail itself of its right under the Settlement Agreement to withdraw from the settlement. Should CSW decide to withdraw from the settlement, it would plan to file a motion with this Board to reopen these proceedings.

With regard to the second point (CSW's right, in the event the amended Offer of Settlement is not approved by the FERC by June 9, 1981, to return to the NRC for a determination of whether any subsequent refusal by HLP or TUCS to

establish or maintain an interconnection with any CSW Company would create or maintain a situation inconsistent with the antitrust laws or policies thereunder), CSW interprets this part of the Settlement Agreement as giving it the right, in such a subsequent NRC proceeding, to request the evaluation, under Section 105 of the Atomic Energy Act, of interconnections, both alternating current (ac) and dc. This was CSW's intent and understanding in entering into the Settlement Agreement. TUCS, however, has taken the position that in any NRC proceeding following FERC rejection of the Offer of Settlement or failure of FERC to act on that Offer by June 9, 1981, CSW would be entitled to request the evaluation by the NRC of dc interconnections only.

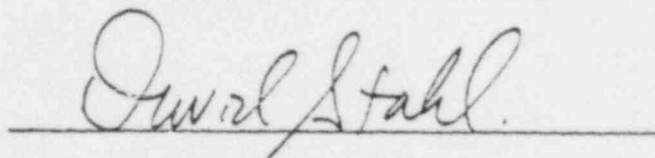
The implications of this dispute between CSW and TUCS are obvious. If FERC does not order the dc interconnections, the underlying premise of the settlement -- and the license conditions which have been agreed upon -- will no longer exist. The Settlement Agreement attempted to address this situation by permitting CSW to return to the NRC. Although CSW is well aware that no private agreement can bind the Licensing Board with regard to either point (1) or (2) discussed above, CSW suggests that the Board should approve the license conditions with the full understanding that if the basic premise of the settlement -- FERC and SEC approval of the dc interconnections -- is not realized, the parties should be permitted to return to the NRC for further

proceedings on whether interconnections should be ordered, regardless of whether such interconnections are ac or dc. In any event, CSW believes it is obligated to advise the Board it is reserving what it believes to be its rights under the Settlement Agreement (as outlined in points (1) and (2) above) in the event the settlement is not consummated.

CSW believes that, in the context of the overall settlement and the foregoing discussion with regard to the necessity to obtain other regulatory approvals, the licensing of the South Texas Project, Units 1 and 2, and of the Comanche Peak Steam Electric Station, Units 1 and 2, under the proposed license conditions will not 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 the Atomic Energy Act. Realizing that so complex a litigation requires the concurrence and approval of several regulatory agencies, CSW believes that entry of an Order by this Board approving the proposed license conditions is a meaningful and essential step in arriving at the overall settlement, provided that this Board recognizes that this matter may have to be reopened should the other subsequent essential steps fail of realization.

Respectfully submitted,

ISHAM, LINCOLN & BEALE

A handwritten signature in cursive script, reading "David Stahl", is written over a horizontal line.

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Dated: September 15, 1980

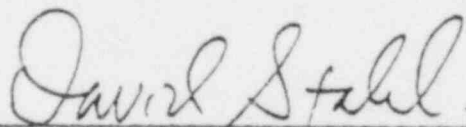
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NUCLEAR REGULATORY COMMISSION

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COMPANY, <u>et al.</u>	\$	50-446A
(Comanche Peak Steam	\$	
Electric Station,	\$	
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CERTIFICATE OF SERVICE

I, David M. Stahl, hereby certify that copies of the foregoing Status Report of Central and South West Corporation, et al. on Status of Settlement Negotiations were served upon the following listed persons either by hand delivery or by deposit in the United States mail, first class postage prepaid on this 15th day of September, 1980.



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