

Sept 14, 1980

# POOR ORIGINAL

## UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

### BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
HOUSTON LIGHTING & POWER COMPANY  
PUBLIC SERVICE BOARD OF SAN ANTONIO  
CITY OF AUSTIN  
CENTRAL POWER AND LIGHT COMPANY  
(South Texas Project, Unit Nos. 1  
and 2)

NRC Docket 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

### NRC STAFF'S FOURTH STATUS REPORT ON SETTLEMENT

The NRC Staff hereby submits its fourth status report on settlement in the above-captioned proceedings, pursuant to the Licensing Board's Order of September 8, 1980. The Staff is pleased to report that it, and the Department of Justice, have been able to conclude a settlement with the Applicants in these proceedings, as embodied in the two sets of proposed license conditions, attached herewith.<sup>1/</sup>

<sup>1/</sup> The Staff understands that the agreement of the City of Austin and the City Public Service Board of San Antonio to the proposed settlement license conditions is, as of this moment, a tentative agreement, subject to review of the final draft of the proposed conditions and subject to city council or other necessary approval.

Also attached herewith are Stipulations pertaining to the settlement license conditions. The Stipulations have been executed by all parties to the Comanche Peak proceeding; however, the Stipulation pertaining to the South Texas proceeding is not yet signed by all parties. The Staff's present expectation is that the City of Austin and the City Public Service Board of San Antonio will sign upon completion of their final reviews and upon obtaining final necessary approvals.

Since the Staff's last status report of July 11, 1980, settlement has been pursued by the Staff on an extremely intensive and daily basis. The Staff has attempted, to the extent possible, to keep all parties to the proceedings informed of NRC Staff proposals as soon as they have been developed. In addition, the Staff has had continuing contact with all parties to the proceedings to obtain their points of view and comments on the NRC Staff's proposals.

The settlement license conditions have been finalized only late on September 11, 1980, and only after extraordinary efforts of the parties involved.<sup>2/</sup> As a result, the NRC Staff has been unable to circulate these proposed license conditions to other parties in the above-captioned proceedings. Thus, the Staff believes that the other parties may be unable to satisfy the Board's requirements regarding this status report, as set forth in its Order of September 8, 1980, which directs submittal of the parties' views on proposed settlements, statements of unresolved issues, and suggestions for hearing procedures. Accordingly, the Staff believes it appropriate for the Board to permit an additional period of time to enable these other parties to fulfill their obligations under the Board's September 8th Order.

In connection with the attached Comanche Peak settlement license conditions, it is the Staff's position that the licensing of Comanche Peak Steam Electric

<sup>2/</sup> In this regard, the Staff would also have the Board note the participation of the Staff of the Federal Energy Regulatory Commission in the settlement process, whose efforts were both fundamentally necessary to this settlement and of invaluable assistance to the NRC Staff.

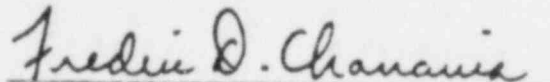
Station, Units 1 & 2, under such license conditions, if approved by this Board, will not create or maintain a situation inconsistent with the antitrust laws or their underlying policies under Section 105c of the Atomic Energy Act of 1954, as amended. Accordingly, the Staff believes that the controversies among the parties and the Applicant in the Comanche Peak antitrust proceeding requiring adjudication have been concluded, pending approval by the Board of the license conditions attached hereto.

Upon Board approval of the settlement license conditions in the South Texas proceeding, the Staff also believes that the licensing of South Texas Project, Units 1 & 2, under such license conditions will not create or maintain a situation inconsistent with the antitrust laws or their underlying policies, under the standards of Section 105c of the Atomic Energy Act of 1954, as amended. Accordingly, the NRC Staff presently believes that there is no reason to have an antitrust hearing in South Texas. Of course, the Staff is unable to state its final position on the need for a hearing, and procedures attendant thereto, until all parties to the South Texas proceeding have been able to examine the proposed settlement license conditions and to indicate their position with respect to those license conditions.

Until that time, the Staff cannot make suggestions for any hearing procedures on unresolved issues which other parties might seek to bring before this Board. As suggested above, the Board should allow the parties in these

proceedings an appropriate time in which to examine the license conditions attached hereto and to report back to the Board.

Respectfully submitted,

  
Fredric D. Chanania  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 14th day of September, 1980.

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CERTIFICATE OF SERVICE

I hereby certify that copies of NRC STAFF'S FOURTH STATUS REPORT ON SETTLEMENT in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system and hand carried to members of the Licensing Board, this 14th day of September, 1980.

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