

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: C. M. Butler III, Chairman;
Georgiana Sheldon and A. G. Sousa.

Central Power and Light Company,)	
Public Service Company of Oklahoma,)	
Southwestern Electric Power Company,)	Docket Nos. EL79-8
West Texas Utilities Company)	E-9558

ORDER REQUIRING INTERCONNECTION AND
WHEELING, AND APPROVING SETTLEMENT

(Issued October 28, 1981)

On February 9, 1979, four public utilities, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and West Texas Utilities Company, jointly filed an application 1/ for (1) exemption from state regulation preventing voluntary coordination of the utilities pursuant to section 205(a) of The Public Utilities Regulatory Policies Act of 1978 and (2) interconnection of facilities and the provision of transmission services pursuant to sections 202, 210, 211, and 212 of the Federal Power Act (Act), as amended. The four utilities are wholly owned subsidiaries of Central and South West Corporation (CSW) and hereafter will be referred to collectively as CSW. CSW requested approval of four synchronous alternating current interconnections between two electric reliability councils, the Electric Reliability Council of Texas (ERCOT) and the Southwest Power Pool (SWPP). The application was opposed by Houston Lighting and Power Company (HLP) and the operating subsidiaries 2/ of the Texas Utilities Company (TUC).

On June 27, 1980, in an attempt to settle, among other things, this proceeding and a related proceeding before the Nuclear Regulatory Commission, Central Power and Light Company filed an amended application seeking approval of two asynchronous direct current interconnections between electric utilities in ERCOT and SWPP. On July 28, 1980, CSW, HLP and TUC submitted an offer of settlement which would effectuate the proposal set forth in the amended application.

1/ This proceeding had its antecedents in a complaint filed on May 4, 1976, in Central Power and Light Co., Docket No. E-9558, alleging a number of utilities in Texas were public utilities subject to the jurisdiction and interconnection authority of the Commission.

2/ These companies are Dallas Power & Light Company, Texas Electric Service Company, and Texas Power & Light Company.

The offer of settlement has been supplemented on two occasions. The offer first was supplemented by agreement dated September 11, 1980, executed by the Commission staff, CSW, HLP, and TUC, and a supplemental offer of settlement was filed on October 8, 1980. Then on June 22, 1981, a second supplemental offer of settlement was filed, advising the Commission that an agreement had been executed by CSW and the U.S. Department of Justice (DOJ), under which DOJ agreed not to contest the offer of settlement as supplemented by the supplemental offer of settlement and as amended by the second supplemental offer of settlement. The offer of settlement, as supplemented, will hereafter be referred to as the "settlement agreement".

All parties in this proceeding, while reserving their respective positions in the event the settlement agreement is not accepted by the Commission, have either affirmatively joined in the settlement agreement or announced their intention to accept the proposed order without appeal. The administrative law judge certified the settlement agreement to the Commission as an uncontested offer of settlement on July 10, 1981.

The settlement agreement provides among other things that asynchronous interconnections will be installed between ERCOT and SWPP. These would consist of a North Interconnection, to be constructed by CSW, which would consist of two back-to-back direct current terminals with an initial capacity of 200 mw on either side of the ERCOT - SWPP border at Oklaunion, Texas. CSW will also construct an alternating current terminal at the Public Service Company of Oklahoma's power station in Lawton, Oklahoma, and a 345 kw AC transmission line from Lawton to the northern bus of the interconnection at Oklaunion, a distance of some 61 miles. The South Interconnection, to be constructed jointly by CSW and HLP, would consist of a direct current transmission line approximately 153 miles long with terminals having an initial capacity of 500 mw in Walker County, Texas, and at the South Texas Project (STP), a generating plant under construction near Bay City, Texas. Initially, CSW will pay for and be the owner of 100 percent of the North Interconnection. As to the South Interconnection, CSW will pay for and own 60 percent, while HLP will pay for and own the remaining 40 percent.

Other utilities in ERCOT and SWPP have an opportunity to participate in the construction and ownership of the interconnections on the condition that each such party pays its pro rata share of the capital costs of constructing the interconnection in which it wishes to participate and undertakes to pay its pro rata share of the costs of operating and maintaining the interconnection. Furthermore, at maximum intervals of three years from June 30, 1983, to June 30, 2004, other utilities which are members of ERCOT or SWPP will be given an opportunity to participate in planning and ownership of any capacity increases in the interconnections.

As part of their respective filed wheeling rates, CSW and HLP will each reserve 15 percent of the capacity of their respective direct current interconnection facilities for firm power wheeling. This reservation will be made for utilities in ERCOT and SWPP having loads less than 500 mw.

Rates and service will be determined from time to time in accordance with the procedures of sections 205 and 206 of the Act. CSW, HLP, and TUC agree to file rates with the Commission for wheeling power to, from, or over the proposed direct current interconnecting facilities which will roll in each of their alternating and direct current transmission costs with the result that any utility using any of their AC or DC lines for wheeling power in interstate commerce will pay a rate designed to recover all costs and a reasonable return on both the AC and DC investment and related operating costs.

In addition, CSW must, upon request, consult with any entity which owns or operates electric generation or transmission facilities concerning the technical feasibility of any specific alternating current synchronous interconnection between ERCOT and SWPP which is proposed in good faith. This shall include assisting in the formulation and performance of load flow and stability studies and supplying technical and financial information necessary to facilitate the entity's planning of the proposed AC interconnection.

The Commission staff prepared an Environmental Analysis Report concerning the settlement proposal which concluded that the construction and operation of the proposed interconnections, conditioned upon certain construction and reporting requirements designed to mitigate environmental impacts, would not constitute a major federal action significantly affecting the quality of the human environment.

The Commission finds:

(A) The order issued herewith pursuant to section 210 of the Act is in the public interest, will encourage overall conservation of energy and capital, will optimize the use of facilities and resources, and will improve the reliability of each electric utility system to which this order applies.

(B) The order issued herewith pursuant to section 211(a) of the Act is in the public interest, would conserve a significant amount of energy, would significantly promote the efficient use of facilities and resources, would improve the reliability of each electric utility system to which the order applies and would reasonably preserve existing competitive relationships.

(C) The order issued herewith is not likely to result in a reasonably ascertainable uncompensated economic loss for any electric utility affected by the order, nor will it place an

undue burden on, unreasonably impair the reliability of, or impair the ability to render adequate service to customers of, any electric utility affected by the order.

(D) No party subject to this order has incurred or is likely to incur any costs as a result of this order which CSW would be obligated to reimburse under section 212(b) of the Act, except as otherwise ordered herein. The record demonstrates that CSW is ready, willing and able to reimburse each party subject to this order for costs incurred under this order.

(E) The settlement agreement is fair, reasonable and in the public interest and should be approved.

(F) All outstanding material issues in Central Power and Light Co., Docket No. E-9558 are either resolved or rendered moot by this order.

(G) The order issued herewith does not constitute a major federal action that significantly affects the quality of the human environment.

(H) The mitigation and reporting requirements ordered herein mitigate any potential adverse environmental effect to the human environment that could arise from this order.

The Commission orders:

(1) The settlement agreement is approved and adopted by the Commission. CSW, HLP, and TUC shall construct the interconnections and take all actions necessary to implement the settlement agreement.

(2) Central Power and Light Co., Docket No. E-9558, is dismissed with prejudice.

(3)(a) Compliance with this order or any provisions hereof shall not make TUC, any of TUC's operating subsidiaries, HLP, or any other electric utility or other entity a "public utility", as that term is defined by section 201 of the Act, and subject to the jurisdiction of the Commission for any purpose other than for the purpose of carrying out the provisions of sections 210, 211, and 212 of the Act.

(b) Compliance with this order or any provisions hereof shall not make TUC, any of TUC's operating subsidiaries, or HLP subject to the jurisdiction of the Commission for any purpose other than the purposes specified in this order and in the settlement agreement.

(4) Since the parties have already agreed on the terms and conditions upon which this order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them, no proposed order pursuant to section 212(c) of the Act is necessary. The Commission approves the settlement agreement, and pursuant to section 212(c)(2)(A) of the Act, the terms and conditions of that agreement relating to apportionment of costs, compensation and reimbursement are hereby incorporated in this order.

(5) The Commission is advised that this settlement is part of an overall settlement which involves cases and controversies at other agencies and in various courts and that settlement of this case is contingent upon parallel resolution in the other forums, including, but not limited to, Securities and Exchange Commission Admin. Proc. File No. 3-4951. Therefore, in order to accommodate an overall settlement, the Commission will entertain applications for rehearing filed by HLP, TUC, CSW or any other party that challenges this order, and will grant rehearing for further consideration until such time as HLP, TUC, and CSW either file a withdrawal of their respective applications for rehearing or file a notice that the settlement is withdrawn; provided, that until such time as applications for rehearing or the settlement are withdrawn by HLP, TUC, and CSW, the Commission, on its own motion (or motion of any party), after reasonable notice and an opportunity to comment, may withdraw this order and remand the case to the administrative law judge to proceed with the case on the original or amended application filed by CSW.

(6) The agreement between CSW and DOJ attached to the second supplemental offer to settlement is hereby incorporated by reference and approved by the Commission; provided however that no acts undertaken pursuant to the agreement, or this Commission's approval thereof or the incorporation of such agreement herein shall affect in any way the non-jurisdictional status of HLP or TUC provided in this order.

(7) CSW and HLP, and any other owners of the North or South Interconnections shall comply with the mitigation measures contained in the Commission staff's Environmental Analysis Report, dated October 29, 1980, to minimize the impact resulting from construction of the direct current transmission lines.

(8) CSW and HLP, and any other owners of the North or South Interconnections, shall consult with the United States Fish and Wildlife Service, the Texas Parks and Wildlife Department and the Texas State Historical Preservation Office in order to determine environmental guidelines appropriate to reasonably mitigate any potential adverse effect to the quality of the human environment that could arise from this order.

(9) No less than 90 days prior to the commencement of construction of each of the North and South Interconnections, the environmental guidelines determined for such interconnection pursuant to paragraph 8, supra, shall be submitted by the owner(s) to this Commission's Division of Environmental Analysis and to the Commission's Ft. Worth regional engineer. This report shall include the final right of way identified for the North and/or South Interconnections and shall identify the environmental guidelines adopted to reasonably mitigate any adverse effects to the quality of the human environment. Thereafter, until each interconnection is operational, annual reports shall be submitted by the owner(s) showing that the environmental guidelines have been observed.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.