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ADMITTED IN MASSACHUSETTS ONLY

August 2, 1993

BY TELECOPIER AND U.S. MAIL

Mr. Geoffrey Grant
Acting Chief
Inspection and Licensing Policy Branch
Program Management, Policy Development
and Analysis Staff
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Gulf States Utilities Company;
River Bend Station, Docket No. 50-458.

Dear Mr. Grant:

Brazos Electric Power Cooperative, Inc. ("Brazos") hereby submits its responses to the questions posed to Brazos in your letter of July 7, 1993.

Question 1

The cited proposal is not acceptable for a series of reasons, which include the following:

It would be inconsistent with both the FERC's and this Commission's statutory responsibilities, including the antitrust aspects of those responsibilities. Under the proposal, the FERC and this Commission would be asked to currently endorse the fundamental alterations in bulk power and transmission markets which will inevitably result from the proposed GSU/Entergy merger, with such approval premised in large part on the applicants' promise to extend the existing Entergy "open access" transmission tariff to the GSU system.

The proposal is defective because it assumes the principal point in dispute -- that extension of the existing tariff, despite its numerous deficiencies, including its point to point restriction, is in itself sufficient market power mitigation to render the proposed merger acceptable under the applicable statutory standards. The proposal would fail to give current consideration, prior to the merger's consummation, regarding the claims of multiple

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fundamentally affected parties, including Brazos, that the proposed extension of the existing Entergy tariff represents an undertaking by applicants which fails to meet the current (pre-merger) requirements of the applicable GSU and Entergy antitrust license conditions, and also fails to address the question of whether those conditions require not only enforcement as currently written, but also potential current modification in light of the major market effects of the proposed merger. Under the cited proposal, the above questions would ostensibly simply be deferred to a later time. Yet such "deferral" fails to acknowledge that systems such as Brazos cannot even hope to compete effectively in the relevant post-merger power and transmission markets if critical terms of access to those markets currently remain unclear, subject to the cost and uncertainty of future litigation.

The proposal would grant the merged Entergy prohibited monopoly power, and leave to a later date the fashioning of a remedy. The service agreement-by-service agreement approach advocated under the proposal would defeat the principal purpose of a transmission tariff as a restraint on monopoly power over transmission -- to provide all customers with certainty of availability and uniformity of rates, terms, and conditions.

Rational system planning simply cannot be premised on the degree of uncertainty which the cited proposal would endorse. Yet such planning uncertainty would, under the proposal in question, be faced by Brazos immediately, not only regarding the SWPA power which it currently utilizes in the GSU control area in addition to the requirements power it purchases from GSU, but also as to current planning for Brazos' full GSU-area load, given that, as noted by Brazos previously in this proceeding, Brazos' current power requirements contract with GSU has an initial term ending in 2000, and could, under certain circumstances, be subject to termination by Brazos as early as 1995.

Question 2

Brazos was not a participant in the drafting of the River Bend and Grand Gulf license conditions. For this reason, Brazos cannot speak with institutional knowledge regarding those processes. However, even absent such knowledge, Brazos maintains that the following points are clear.

First, Brazos submits that given that the license conditions in question are by definition antitrust license conditions, it would be patently unreasonable to read the absence of an explicit reference to a requirement of a single transmission rate as being, sub silentio, an indication that the River Bend and Grand Gulf conditions require merely point-to-point, rather than network, transmission service. Given the major real-world differences between these two forms of transmission service, with regard to their ability to mitigate the market power conferred through the grant of a nuclear operating license, it is difficult to see how, if construed as requiring only point-to-point service, those conditions could have ever been found by this Commission as

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sufficient to meet its statutory antitrust conditioning obligations with regard to the specific licenses in question. Brazos submits that the result is that the additional language in question must in the present context be viewed as language which would, if present, be language of clarification, not alteration. See, e.g., Louisiana Power and Light Company (Waterford Steam Generating Station Unit No. 3), 8 AEC 718 (ASLB 1974).

Second, were this Commission to nonetheless construe the absence of such additional language as indicating a requirement of merely point-to-point transmission service under either the River Bend or Grand Gulf license conditions, such action would dramatically underscore the current need for hearing procedures to examine whether those license conditions are adequate to serve their mitigative purposes in light of the significantly enhanced market power of a merged GSU/Entergy system.

Question 3

Given the public, unprotected nature of this response, Brazos must give a somewhat limited reply to Question 3's inquiry regarding current power supply negotiations. With that proviso, Brazos notes the following.

As noted in Brazos' Petition to Intervene, in addition to requirements power purchased from GSU, Brazos currently utilizes 5.2 MW of SWPA hydropower to serve member load in the GSU Texas control area. This power is initially wheeled by SWEPCO, and subsequently received by GSU on Brazos' behalf, with GSU then combining this power with its own for the provision of power requirements service to the individual Brazos delivery points set forth in the Brazos/GSU requirements contract appended to Brazos' Petition.

The result of the above is that Brazos, with the following caveats, could be described as currently receiving a limited form of non-network transmission service from GSU with regard to the SWPA power in question: (1) Brazos currently receives no capacity credit from GSU with regard to this SWPA power, and (2) both the SWEPCO and GSU letter agreements with Brazos regarding this SWPA power are by their terms, year-to-year arrangements.

At present, Brazos has no way to predict how or whether -- if the current point-to-point limitation in the Entergy "open access" tariff is accepted by the FERC and this Commission for use on the merged GSU/Entergy system -- GSU will seek to use such acceptance in the context of future negotiations for transmission of SWPA power for Brazos. However, Brazos remains concerned that such acceptance of a point-to-point limitation by the FERC and this Commission would be cited by GSU as a basis for opposing any increase in flexibility or crediting sought by Brazos with regard to SWPA power utilized by Brazos under Brazos' current GSU requirements power contract.

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With regard to the broader question of specific transactions which Brazos will have to "forego" if network transmission is not required as part of the merged GSU/Entergy's "open access" tariff, Brazos notes that this question is in many respects a "Catch-22." Absent a tariff which clearly guarantees network transmission access, Brazos is not even in a position to identify for itself the full range of its genuine power supply options pre-and post-2000, let alone determine which of these would be rendered infeasible absent network access, *i.e.*, network access is so fundamentally different from point-to-point that it is simply not something which can be readily assumed to exist arguendo.

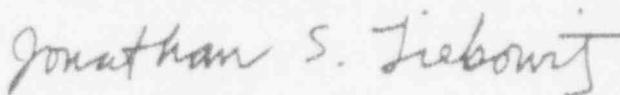
Question 4

The question describes the "focus of Brazos' concerns" too narrowly. Given the merger context in which GSU is seeking the license transfer at issue in this proceeding, Brazos maintains that the Commission is statutorily obligated to currently examine through hearings at least the following questions:

(1) whether the terms of the merged GSU/Entergy's operations as proposed would be in compliance with existing license conditions applicable to GSU, LP&L, and MP&L, and

(2) whether the existing GSU, LP&L, and MP&L conditions require modification by the Commission in order to be effective to prevent the establishment and maintenance of a situation inconsistent with the antitrust laws in the significantly changed competitive setting introduced by the creation of a merged, centrally-dispatched GSU/Entergy system.

Respectfully submitted,



Robert A. O'Neil
Jonathan S. Liebowitz

cc: Mark J. Wetterhahn, Esq.