

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
11:50 PM

'82 APR -6 P4:50

James A. Laurenson
Administrative Law Judge

Houston Lighting & Power Company, et al.	)	Docket Nos.
(South Texas Project, Units 1 & 2)	)	50-498A
	)	50-499A
)	
Texas Utilities Generating Company, et al.	)	Docket Nos.
(Comanche Peak Stream Electric Station,	)	50-445A
Units 1 & 2)	)	50-446A

STATEMENT OF SOUTH TEXAS ELECTRIC
COOPERATIVE, INC. AND MEDINA ELECTRIC
COOPERATIVE, INC. REGARDING EXTANT ISSUES



South Texas Electric Cooperative, Inc. and Medina Electric Cooperative, Inc. (STEC/MEC), intervenors in the proceedings at Docket Nos. 50-498A and 50-499A, hereby respond to the Notice of Conference of Council issued March 22, 1982 by the now-presiding Administrative Law Judge. In that Notice, all parties to the above-captioned consolidated proceedings were instructed to submit (1) a brief historical sketch and status report; (2) a list of remaining issues; and (3) a set of recommendations aimed at resolving those issues. STEC/MEC's response to those directives is as follows:

DS08
1/1

I.

HISTORY/STATUS

To avoid duplicating the anticipated efforts of other parties, STEC/MEC will not herein attempt a step-by-step recitation of the complete history of these proceedings, which history now spans some five years. STEC/MEC's response will instead be limited to a discussion of the role which they have played in these proceedings thus far.

STEC/MEC became parties to the South Texas Project anti-trust proceedings in mid-1978, when the formerly constituted Atomic Safety and Licensing Board granted their joint Petition to Intervene.¹ STEC/MEC did not formally petition to intervene in the Comanche Peak proceedings at Docket Nos. 50-445A and 50-446A.

Since intervening in the South Texas Project proceedings, STEC/MEC have been active participants. Although they initiated no discovery requests on their own behalf, STEC/MEC

¹STEC/MEC's Petition was filed May 15, 1978, in response to the Notice of Hearing which appeared in the Federal Register on April 14, 1978 [43 F.R. 15811]. The Board granted STEC/MEC's Petition during the course of a special prehearing conference convened on June 21, 1978 [Tr. 32]. The Board's action in this regard was confirmed in a Special Prehearing Conference Order Issued July 13, 1978 (slip op. p.2).

willingly responded to the requests served upon them by others. STEC/MEC have been represented by counsel at virtually all conferences of council convened by the Board during the past four years. Additionally, STEC/MEC took part in a number of the discussions which eventually led to presentment to the Board, on September 12, 1980, of a document entitled "Stipulation and Proposed Licensing Conditions" for the Comanche Peak and South Texas projects, the Commission's acceptance of which will apparently permit these antitrust proceedings to be settled as among all parties hereto, save possibly the Public Utilities Board of the City of Brownsville. In comments filed September 25, 1980, STEC/MEC stated their general support for this stipulation and conditions. STEC/MEC's support was not unequivocal, however. At page 2 of their comments, STEC/MEC pointed out that, if, notwithstanding this settlement, a hearing is to be held on some or all of the issues considered to be within the scope of this proceeding, STEC/MEC may well choose to participate.

II.

ISSUE IDENTIFICATION

A review of the pleadings filed in these proceedings to date indicates that only Brownsville has taken objection to the pending stipulation. Brownsville's objections are, however, approximately one and one-half years old, these proceedings

having been essentially dormant since December, 1980. During the interim, there have been developments in related proceedings before the Federal Energy Regulatory Commission and the Securities and Exchange Commission which, STEC/MEC believe, may have caused Brownsville to reevaluate its role in the instant antitrust proceedings. STEC/MEC expect that Brownsville will be filing a statement with this tribunal in which their current position in these proceedings will be clarified.

At this juncture, STEC/MEC, in view of their limited resources and the success which has been achieved in the related proceedings before other agencies, do not intend to present a case in chief or to independently advance argument on any issue in these antitrust proceedings. However, should Brownsville or any other party to these proceedings elect to move forward on any issue, STEC/MEC may chose to lend their efforts to such an undertaking, in the hope that this Commission might act to establish a bond of antitrust protection which goes beyond that evidenced in the pending Stipulation and Proposed Licensing Conditions. STEC/MEC would be particularly inclined to take part in the litigation of issues dealing with the conditions under which one of the licensees might seek to break existing interconnections between itself and any other entity.

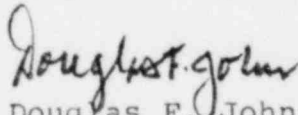
In practical effect, then, STEC/MEC are presently unable to identify the issues, if any, which are still outstanding in these proceedings.

III.

ISSUE RESOLUTION

Since, as discussed above, STEC/MEC are presently unable to identify the issues, if any, which remain, it would be premature for STEC/MEC to offer recommendations as to how potential issues should be resolved.

Respectfully submitted,



Douglas F. John
Attorney for South Texas Electric
Cooperative, Inc. and Medina
Electric Cooperative, Inc.

McDermott, Will & Emery
1850 K Street, N.W.
Suite 500
Washington, D.C. 20006

Of Counsel:

Morgan Hunter, Esq.
McGinnis, Lochridge & Kilgore
Texas State Bank Building
Fifth Floor
900 Congress Avenue
Austin, TX 78701

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	
HOUSTON LIGHTING AND POWER	)	Docket Nos. 50-498A
CO., et al. [South Texas	)	50-499A
Project, Units 1 and 2])	
)	
TEXAS UTILITIES GENERATING	)	Docket Nos. 50-445A
COMPANY, et al. [Comanche	)	50-446A
Peak Steam Electric Station,)	
Units 1 and 2])	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing comments were served upon the following persons by deposit in the United States mail, first class postage prepaid this 6th day of April, 1982.

Marshall E. Miller, Chairman
Atomic Safety & Licensing
Board Panel
Nuclear Regulatory Commission
4530 East West Highway
Washington, D.C. 20555

Michael L. Glaser, Esquire
1170 17th Street, N.W.
Washington, D.C. 20036

Stephen H. Lewis, Esquire
Michael B. Blume, Esquire
Ann Hodgdon, Esquire
Nuclear Regulatory Commission
Washington, D.C. 20555

Chase R. Stephens, Chief
Docketing & Service Station
Office of the Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

David M. Stahl, Esquire
Sarah F. Holzsweig, Esquire
Isham, Lincoln & Beale
1120 Connecticut Avenue, N.W.
Suite 325
Washington, D.C. 20036

Sheldon J. Wolfe, Esquire
Atomic Safety & Licensing
Board Panel
Nuclear Regulatory Commission
4530 East West Highway
Washington, D.C. 20555

Joseph Rutberg, Esquire
Antitrust Counsel
Nuclear Regulatory Commission
Washington, D.C. 20555

R. Gordon Gooch, Esquire
John P. Mathis, Esquire
Baker & Botts
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Jerome Saltzman, Chief
Antitrust & Indemnity Group
Nuclear Regulatory Commission
Washington, D.C. 20555

Joseph I. Worsham, Esquire
Merlyn D. Sampels, Esquire
Spencer C. Relyea, Esquire
Worsham, Forsythe & Sampels
2001 Bryan Tower
Suite 2500
Dallas, Texas 75201

Robert A. Fabrikant, Esquire
Mildred L. Calhoun, Esquire
Nancy McMillen, Esquire
Antitrust Division
Department of Justice
P. O. Box 14141
Washington, D.C. 20444

Joseph Knotts, Esquire
Nicholas S. Reynolds, Esquire
Debevoise & Liberman
1200 17th Street, N.W.
Washington, D.C. 20036

Robert Lowenstein, Esquire
J. A. Bouknight, Jr., Esquire
William J. Franklin, Esquire
Lowenstein, Newman, Reis,
Axelrad & Toll
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

R. L. Hancock, Director
City of Austin Electric Utility
Department
P. O. Box 1088
Austin, Texas 78767

Jon C. Wood, Esquire
W. Rogers Wilson, Esquire
Matthews, Nowlin, Macfarlane
& Barrett
1500 Alamo National Building
San Antonio, Texas 78205

Perry G. Brittain, President
Texas Utilities Generating Co.
2001 Bryan Tower
Dallas Texas 75201

Don H. Davidson
City Manager
City of Austin
P. O. Box 1038
Austin, Texas 78767

Kevin B. Pratt, Esquire
Linda Aaker, Esquire
P. O. Box 12548
Capital Station
Austin, Texas 78767

Robert A. O'Neil, Esquire
Miller, Balis & O'Neil
776 Executive Building
1030 Fifteenth Street, N.W.
Washington, D.C. 20005

William Sayles, Chairman and
Chief Executive Officer
Central Power & Light Company
P. O. Box 2121
Corpus Christi, Texas 78403

Frederick H. Ritts, Esquire
Law Offices of Northcutt Ely
Watergate 600 Building
Washington, D.C. 20037

Wheatley & Wollesen
1112 Watergate Office Building
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

G. K. Spruce, General Manager
City Public Service Board
P. O. Box 1771
San Antonio, Texas 78201

Jerry L. Harris, Esquire
Richard C. Balough, Esquire
City of Austin
P. O. Box 1088
Austin, Texas 78767

Michael I. Miller, Esquire
Isham, Lincoln & Beale
One First National Plaza
Chicago, Illinois 60603

Don R. Butler, Esquire
211 East Seventh Street
Austin, Texas 78701

G. W. Oprea, Jr.
Executive Vice President
Houston Lighting & Power Co.
P. O. Box 1700
Houston, Texas 77001

E. W. Barnett, Esquire
Charles G. Thrash, Jr., Esquire
J. Gregory Copeland, Esquire
Theodore F. Weiss, Jr., Esquire
Baker & Botts
3000 One Shell Plaza
Houston, Texas 77002

George Spiegel, Esq.
Robert A. Jablon, Esq.
Marc R. Poirer, Esq.
Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

James E. Monahan
Executive Vice President and
General Manager
Brazos Electric Power Coop, Inc.
P.O. Box 6296
Waco, Texas 76706

Robert M. Rader, Esquire
Conner, Moore, Corber
1747 Pennsylvania Avenue
Washington, D.C. 20006

Mr. G. Holman King
West Texas Utilities Co.
P.O. Box 841
Abilene, Texas 79604

Mr. Leon J. Barish
Assistant Attorney General
of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711

Knoland J. Plucknett
Executive Director
Committee on Power for the
Southwest, Inc.
5541 Skelly Drive
Tulsa, Oklahoma 74135

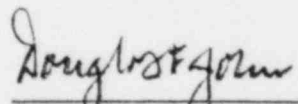
Donald Clements, Esquire
Gulf States Utilities Co.
P. O. Box 2951
Beaumont, Texas 77074

Jay M. Galt, Esquire
Looney, Nichols, Johnson
and Hayes
219 Crouch Drive
Oklahoma City, Oklahoma 73101

Maynard Human, General Manager
Western Farmers Electric Coop.
P.O. Box 429
Andarko, Oklahoma 73005

Somervell County Public Library
P.O. Box 417
Glen Rose, Texas 76403

W. N. Woolsey, Esquire
Dyer and Redford
1030 Petroleum Tower
Corpus Christi, Texas 78474



Douglas F. John

Attorney for

South Texas Electric
Cooperative, Inc. and Medina
Electric Cooperative, Inc.