

50-445/446

August 4, 1992

Note to Jim McKnight:

Please have the enclosed placed in the Docket File (50-445/50-446; Comanche Peak Steam Electric Station, Units 1 and 2) and the public document rooms. The original agreement was submitted by letter dated May 4, 1989. This is a copy of the amended agreement which the staff needed to support a review of a 2.206 request.



Suzanne C. Black, Director
Project Directorate IV-2
Division of Reactor Projects III/IV/V
Office of Nuclear Reactor Regulation

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AMENDED AGREEMENT

between

TEX-LA ELECTRIC COOPERATIVE OF TEXAS, INC.

Tex-La

and

TEXAS UTILITIES ELECTRIC COMPANY

TU Electric

Dated as of January 30, 1990

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THIS AMENDED AGREEMENT is made and entered into this 30th day of January, 1990 by and between the following parties:

TEX-LA ELECTRIC COOPERATIVE OF TEXAS, INC., a Texas non-profit electric cooperative corporation, having its principal office at 2905 Westward Drive, Nacogdoches, Nacogdoches County, Texas ("Tex-La"), and TEXAS UTILITIES ELECTRIC COMPANY, a Texas corporation, having its principal office at 2001 Bryan Street, Suite 1900, Dallas, Dallas County, Texas ("TU Electric", and where appropriate in the context of this Agreement, TU Electric may include TU Electric's corporate predecessors, Dallas Power & Light Company, Texas Electric Service Company and Texas Power & Light Company).

DEFINITIONS

As used in this Agreement and in the Exhibits attached hereto, unless otherwise specified therein, the following terms shall have the following meanings:

- (a) "Agreement" means this Amended Agreement and the Schedule and all Exhibits attached to this Amended Agreement.
- (b) "Assignment" means the Transfer of Lien attached hereto as Exhibit A.
- (c) "Brazos" means Brazos Electric Power Cooperative, Inc.
- (d) "Business Day" means a day on which banks in Dallas, Texas are open for regular banking business.
- (e) "CFC" means the National Rural Utilities Cooperative Finance Corporation, or its successor.
- (f) "Closing" means the consummation, pursuant to this Agreement, of the sale of the Purchased Assets by Tex-La to TU Electric and the purchase of the Purchased Assets by TU Electric from Tex-La, as described herein.

- (g) "Closing Date" means such date as may be agreed upon by the parties for the Closing, which date shall be within thirty (30) days after the last to occur of the NRC Affirmative Date, the PUC Affirmative Date or the granting of the necessary approvals of the REA, the CFC and the FFB with respect to the Tex-La Comanche Peak Debt referred to in Section 5.3(d) hereof, but in no event shall the Closing Date be later than February 1, 1990 except as provided for in Section 10.3 hereof.
- (h) "Closing Payment" means the sum of Five Million Six Hundred Seventy Three Thousand Sixty Five Dollars (\$5,673,065) plus interest thereon at the rate of 10.5% per annum from September 1, 1989 to the Closing Date less the sum of Four Hundred Seventy One Thousand Eight Hundred Sixty Four Dollars (\$471,864) plus the transfer at Closing by TU Electric to Tex-La of all of TU Electric's right, title and interest, free and clear of all liens and encumbrances, in and to the Central Heights substation, the Fitze substation and the Fitze-Central Heights 69 kV line (approximately 12 miles in length) and real property, land rights and appurtenances related thereto, as further described in the offer to sell the Fitze Facilities dated May 21, 1987 addressed to Juan D. Nichols (all of said facilities being referred to as the "Fitze Facilities") subject to the approval of the PUC of said transfer and provided that if the PUC refuses to approve said transfer prior to Closing, then TU Electric shall pay to Tex-La said additional sum of Four Hundred Seventy-One Thousand Eight Hundred Sixty-Four Dollars (\$471,864) at Closing.
- (i) "Comanche Peak" means the nuclear-fueled electric generating facility under construction on certain lands situated in Hood and Somervell Counties, Texas, and consisting of two units having a nominal capacity of 1,150 megawatts

each, and related properties, and is the aggregate and combination of the Station, Fuel and Transmission Facilities, and all other rights and interests associated with or relating to all of the same.

- (j) "Deferred Payment" shall have the meaning set out in Section 1.6(c) hereof.
- (k) "FFB" means the Federal Financing Bank, or its successor.
- (l) "Fuel" means the Comanche Peak nuclear fuel, irrespective of chemical and/or physical form, and the rights and interests related thereto.
- (m) [Deleted Intentionally]
- (n) [Deleted Intentionally]
- (o) "Guaranty" means the form of Guaranty Agreement of TUC attached hereto as Exhibit B.
- (p) "Joint Ownership Agreement" means that certain instrument entitled on the cover page thereof "Joint Ownership Agreement Between Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Generating Company, Texas Municipal Power Agency and Brazos Electric Power Cooperative, Inc. for Comanche Peak Steam Electric Station," executed on January 2, 1979, together with and as modified by that certain instrument entitled on the cover page thereof "Modification of Joint Ownership Agreement Between Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Generating Company, Texas Municipal Power Agency and Brazos Electric Power Cooperative, Inc. For Comanche Peak Steam Electric Station," executed on June 1, 1979, together with and as amended by (i) the Amendment of Joint Ownership Agreement, executed on December 9, 1980, between Dallas Power & Light Company, Texas Electric Service Company,

Texas Power & Light Company, Texas Utilities Generating Company, TMPA, Brazos and Tex-La, together with and as amended by (ii) the Second Amendment of Joint Ownership Agreement, executed on February 12, 1982, between Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Generating Company, TMPA, Brazos and Tex-La.

- (q) "Members" means the seven (7) Tex. non-profit electric cooperative corporations that are the members of Tex-La, as set out in Exhibit C attached hereto.
- (r) "Mortgage" means the purchase money mortgage in the form of the Deed of Trust and Security Agreement to Secure Assumption attached hereto as Exhibit D creating a first lien and granting the Government a first and prior security interest in the Purchased Assets to secure performance of the Assumption Agreement.
- (s) "New LawsUIT" means the lawsuit that, pursuant to Section 4.2(f) of this Agreement, may be filed by Tex-La or TU Electric, and if filed will be filed in Dallas County, Texas, in the event that nonsuits are taken by Tex-La and TU Electric in the Pending Dallas Suit pursuant to Section 4.2(d) of this Agreement or this Agreement is terminated under Article X hereof.
- (t) "Assumption Agreement" means the Assumption Agreement, in the form attached hereto as Exhibit E, to be made and delivered at Closing by TU Electric as provided in Section 1.6(c) of this Agreement.
- (u) "NRC" means the United States Nuclear Regulatory Commission, or its successor.

- (v) "NRC Affirmative Date" shall have the meaning set out in Section 5.3(c) hereof.
- (w) "Owners" means collectively TMPA, TU Electric, Tex-La and Brazos, as owners of Comanche Peak in accordance with the terms of the Joint Ownership Agreement, or singularly any of such parties.
- (x) "Pending Austin Suit" means Cause No. 399,336 — Tex-La Electric Cooperative of Texas, Inc. v. Texas Utilities and Texas Utilities Electric Company, — in the District Court of Travis County, Texas, 98th Judicial District.
- (y) "Pending Dallas Suit" means Cause No. 76-6809-A — Texas Utilities Electric Company v. Tex-La Electric Cooperative of Texas, Inc. — in the District Court of Dallas County, Texas, 14th Judicial District.
- (z) "Pending Houston Suit" means Cause No. 83-29889 — Charles A. Atchison, et al v. Brown & Root, Inc., et al, — in the District Court of Harris County, Texas, 215th Judicial District, removed in April, 1988, to the United States District Court for the Southern District of Texas, Houston Division, and numbered Civil Action No. H-88-1409.
- (aa) "Pending Litigation" means the Pending Dallas Suit and the Pending Austin Suit.
- (bb) "Pending Somervell County Suit" means Cause No. 2692 — Clementine Mathews and her husband Dolphin Mathews v. Comanche Peak Electric Steam Station, et al, — in the District Court of Somervell County, Texas, 18th Judicial District.
- (cc) "Permitted Exceptions" means
- Matters affecting Tex-La's title to all or any part of the Purchased Assets existing immediately prior to the time the same were acquired by

Tex-La from or through TU Electric or TU Electric's predecessors-in-title;

- Matters affecting Tex-La's title to all or any part of the Purchased Assets created by the acts or omissions of (i) all parties owning interests in Comanche Peak at the time involved acting collectively, or (ii) the Project Manager or TU Electric or both;
- The lien for unpaid taxes and assessments relating to taxes and assessments unpaid by parties other than Tex-La or imposed with respect to the periods prior to which Tex-La owned the property interest involved and after the Closing;
- The rights of third parties in and to the Purchased Assets created by the acts or omissions of parties other than Tex-La and not arising by, through or under Tex-La;
- The Joint Ownership Agreement and all licenses, permits, leases, franchises and contracts relating to the Purchased Assets applied for, obtained or created by the acts or omissions of (i) any Owner other than Tex-La, (ii) all parties owning interests in Comanche Peak at the time involved acting collectively, or (iii) the Project Manager or TU Electric or both; and
- Liens (existing or inchoate) in favor of mechanics, materialmen, laborers and suppliers of materials, goods, services, equipment, inventory (of subcontractors) and labor to or for the Station, the Fuel or the Transmission Facilities created by the acts or omissions of (i) any Owner other than Tex-La, (ii) all parties owning interests in Comanche Peak at the time involved acting collectively, or (iii) the Project Manager or TU Electric or both.

- (dd) "Project Manager" means TU Electric designated and acting as such in accordance (or purportedly in accordance) with the terms of the Joint Ownership Agreement.
- (ee) "PUC" means the Public Utility Commission of Texas, or its successor.
- (ff) "PUC Affirmative Date" shall have the meaning set out in Section 5.3(b) hereof.
- (gg) "Purchased Assets" means the aggregate of all that part of Comanche Peak (as Comanche Peak exists and is constituted on the Closing Date) owned by Tex-La or to which Tex-La has a right, title or interest, including without limitation the following, to the extent of Tex-La's ownership interest therein: all real property and rights appurtenant thereto, and improvements thereon and fixtures thereto; that portion of Tex-La's Certificate of Convenience and Necessity heretofore issued by the PUC relative to Tex-La's ownership interest in the Station and the Transmission Facilities; all personal property and rights therein, tangible or intangible, including all machinery, equipment, furniture and vehicles; all rights and entitlements to electric power and energy that may hereafter be generated at Comanche Peak; all rights or claims with respect to charges, payments or prepaid items; all warranties and claims and proceeds therefrom; all rights under all agreements, permits, licenses, franchises and authorizations; all intellectual property rights; all computer hardware and software and related rights and interests in the possession of the Project Manager or otherwise owned by all of the Owners in combination; all books, records, documents and other written material in the possession of the Project Manager or otherwise owned by all of the Owners in combination; the Fuel; the Transmission Facilities; and all other properties and assets pertaining

to Comanche Peak; excluding, however, all documents and other written material in the possession of Tex-La or its representatives pertaining to Comanche Peak which were received or developed by Tex-La in connection with its ownership of a portion of Comanche Peak, including written material pertaining to or involving the Pending Litigation.

- (hh) "REA" means the Rural Electrification Administration of the United States Department of Agriculture, or its successor.
- (ii) "Signing Payment" means the sum of Eighteen Million Dollars (\$18,000,000).
- (jj) "Site" means approximately 7,669 acres owned (in fee or other estate or interest) by the Owners, as tenants in common as their interests may appear, and located in Hood and Somervell Counties, Texas, and more particularly described on the Schedule attached hereto.
- (kk) "Special Warranty Deed with Vendor's Lien and Bill of Sale" means the form of Special Warranty Deed with Vendor's Lien and Bill of Sale attached hereto as Exhibit F.
- (ll) "Station" means the Site, all improvements thereon (including Squaw Creek Lake and Park) and all fixtures and attachments thereto, as well as (i) all personal property thereon and associated therewith or related thereto and owned by the Owners, and (ii) all rights (tangible or intangible), and all easements and other interests of any nature associated therewith or related thereto and owned by the Owners, excluding, however, the Fuel and Transmission Facilities.
- (mm) "Subject Claims" means any and all claims, actions, controversies, causes of action, disputes, demands and complaints of whatsoever kind or nature and whether known or unknown.

- (nn) "Tex-La Comanche Peak Debt" means the aggregate of the indebtedness of Tex-La to the CFC and the FFB which has been guaranteed by the REA, with respect only to Comanche Peak, which at the date hereof is the unpaid principal amount of \$205,975,867.38 and is evidenced and represented by documentation delivered by Tex-La to TU Electric by letter of March 21, 1989. The term does not include Tex-La's line of credit from the CFC evidenced by an April 27, 1987 promissory note to the CFC, which line of credit is not guaranteed by the REA.
- (oo) "TMPA" means the Texas Municipal Power Agency.
- (pp) "Total Payment" means the amount to be paid by TU Electric hereunder in connection with the purchase of the Purchased Assets and in connection with the settlement of the Pending Litigation; which shall be the total of (i) the Signing Payment, (ii) the Closing Payment and (iii) the Deferred Payment, as described in Section 1.6 hereof.
- (qq) "Transmission Facilities" means the Comanche Peak — Cleburne Junction and Cleburne Junction-Everman 345 kV electrical transmission lines, aggregating approximately 51.5 miles in length, and associated rights-of-way, equipment, fixtures and personal property.
- (rr) "TUC" means Texas Utilities Company, a Texas corporation, which is the corporate parent of TU Electric.

RECITALS

- A. TU Electric is an investor-owned utility which, pursuant to a statutory merger that occurred on January 1, 1984, succeeded to all the rights, title and interests and assumed and became liable for all obligations of Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, and Texas Utilities

Generating Company under the Joint Ownership Agreement, and is engaged in the generation, purchase, transmission and sale of electric energy within the State of Texas.

- B. Tex-La is a Texas non-profit cooperative corporation, established pursuant to Tex. Rev. Civ. Stat. Ann. art. 1528b, which is engaged in the purchase, transmission and sale of electric energy within the State of Texas.
- C. Tex-La and TU Electric have previously entered into the Joint Ownership Agreement.
- D. Tex-La and TU Electric each owns an undivided interest in Comanche Peak, which in the case of Tex-La consists of such interest in the Station and Fuel (stated to be an undivided 2-1/8% interest in the conveyance involved) that was conveyed and transferred to Tex-La by TU Electric (or its predecessors) and such interest in the Transmission Facilities (stated to be an undivided 6.02% interest in the relevant instrument but is subject to adjustment) that was conveyed and transferred or agreed to be conveyed and transferred to Tex-La by TU Electric (or its predecessors).
- E. Tex-La and TU Electric have been involved in the Pending Litigation and would like to settle their disputes involved in the Pending Litigation and otherwise and Tex-La would like to sell its interest in Comanche Peak and be relieved of its obligations under the Joint Ownership Agreement and TU Electric would like to acquire such interest and is willing to relieve Tex-La of such obligations under the Joint Ownership Agreement.
- F. Tex-La and TU Electric concluded an Agreement dated March 23, 1989 (the "Original Agreement"), which was amended on December 21, 1989 to extend the automatic termination date referred to in Section 10.3 hereof, in order to provide

for the sale by Tex-La and the purchase by TU Electric of all of Tex-La's right, title and interest in Comanche Peak and the settlement of all Subject Claims between Tex-La and TU Electric and between Tex-La and TU Electric's affiliates pertaining to Comanche Peak, the Pending Litigation, and otherwise, and all matters in connection therewith, upon and subject to the terms and conditions set out herein.

G. Tex-La and TU Electric now wish to further amend the Original Agreement, as previously amended, in order to facilitate the Closing hereunder, and to that end have formulated this Amended Agreement which does not change the substantive result or effect of the Original Agreement, but merely revises certain methodology in connection therewith.

ARTICLE I SALE AND PURCHASE

1.1 Properties and Assets Sold and Purchased. Subject to the terms and conditions of this Agreement, Tex-La hereby agrees to sell, transfer, assign, convey and deliver to TU Electric and TU Electric hereby agrees to purchase from Tex-La, and pay Tex-La for, the Purchased Assets in the manner and at the times hereinafter described.

1.2 Closing. The Closing will occur at 10:00 a.m., Dallas, Texas time, on the Closing Date. The Closing will be held at the offices of Worsham, Forsythe, Sampels & Wooldridge, 2001 Bryan Street, Suite 3200, Dallas, Dallas County, Texas or at such other address as the parties may agree. The fact that the Closing is or was intended to be held in Dallas County shall not be used by TU Electric as evidence for venue purposes in any proceeding related to a Subject Claim arising out of or under this Agreement.

1.3 Transfer of Purchased Assets. At the Closing, Tex-La will sell, convey, assign and transfer to TU Electric, and TU Electric will purchase, under and pursuant to a form of the Special Warranty Deed with Vendor's Lien and Bill of Sale, the Purchased Assets.

1.4 Enforceability of Agreement. Subject to Article X and fulfillment of the conditions set forth in Article V of this Agreement, upon execution of this Agreement, Tex-La and TU Electric shall be obligated to carry out the transaction contemplated by this Agreement.

1.5 Method of Payment. All payments made by TU Electric to Tex-La under this Agreement shall be made by wire transfer of immediately available funds through the federal reserve system to Tex-La's bank designated in writing to TU Electric. If the due date of any payment under this Agreement falls on a day that is not a Business Day, such payment shall be paid on the first Business Day following the date on which such payment is due.

1.6 Payment of Total Payment. TU Electric has paid and shall pay to Tex-La the Total Payment as follows:

- (a) Payment Upon Signing. On the date of execution of the Original Agreement, TU Electric paid to Tex-La the Signing Payment. Except to the extent previously withdrawn, as hereinafter provided for, the Signing Payment has been held and will continue to be held in a separately segregated trust account at CFC until Closing, but Tex-La may invest same in its sole discretion. Tex-La has used \$17,730,909.01 of the Signing Payment (including principal and interest) from the separately segregated trust account to pay principal and interest falling due on the Tex-La Comanche Peak Debt, and may continue to do so prior to Closing and also to pay any amount outstanding under the CFC line of credit referred to in definition (nn), but for no other purpose, provided that prior to any such use Tex-La establishes security for the funds withdrawn by delivering to TU Electric an irrevocable letter of credit in favor of TU Electric in form and substance satisfactory to TU Electric issued by a

bank, with capital of at least \$100,000,000 (which may include CFC if it has such capital), such letter of credit to be in the amount of the funds withdrawn plus an incremental amount calculated from the date of withdrawal of such funds to January 31, 1990 at the rate of 9.03% per annum. Such letter of credit shall provide that TU Electric may withdraw the funds thereunder (including the part of the aforementioned incremental amount computed to January 31, 1990) in the event of termination of this Agreement pursuant to Article X. Upon the Closing, the Signing Payment (including any portion withdrawn by Tex-La) will be deemed a part of the Total Payment. Absent a Closing, the Signing Payment will be subject to refund as provided in Article X.

- (b) Payment at the Closing. At the Closing, TU Electric will pay to Tex-La the Closing Payment.
- (c) Deferred Payment. (i) At the Closing, TU Electric and Tex-La will execute and deliver to REA in payment of the remaining portion of the Total Payment, the Assumption Agreement with reference to a portion of the Tex-La Comanche Peak Debt. At the Closing, the portion of Exhibit A attached to the Assumption Agreement applicable to the period after the Closing Date shall become the schedule of payments payable under the Assumption Agreement, provided that at the Closing TU Electric also shall pay Tex-La any principal and interest payments referenced on Exhibit A for the period prior to the Closing which for any reason TU Electric did not previously pay under clause (iii) hereof. (ii) The performance of the Assumption Agreement will be secured by the Mortgage given as a purchase money mortgage and the vendors lien provided for in the Special Warranty Deed with Vendors Lien and Bill of

Sale, it being understood and agreed that Tex-La will contemporaneously therewith assign and transfer the vendors lien retained in the Special Warranty Deed with Vendors Lien and Bill of Sale to the REA pursuant to and in accordance with the Assignment. (iii) Since August 31, 1989 until the date hereof, TU Electric has made certain payments with respect to the Tex-La Comanche Peak Debt and other CFC debt. Prior to the Closing Date, TU Electric will continue to make the payments listed under the headings of Principal Payment and Interest Payment on such Exhibit A to the Assumption Agreement to Tex-La at least one (1) Business Day prior to the dates shown on such Exhibit A (and Tex-La shall then timely apply such payments to the Tex-La Comanche Peak Debt), if, and only if, prior to the making of any such payments Tex-La shall have delivered to TU Electric an irrevocable letter of credit in favor of TU Electric in form and substance satisfactory to TU Electric issued by a bank with capital of at least \$100,000,000 (which may include CFC if it has such capital), such letter of credit to be in the amount of any such payments to be made by TU Electric plus an incremental amount based on the amount of such payments calculated from the date of such payment by TU Electric to the termination date provided for in Section 10.3 hereof at the rate of 10.5% per annum. Such letter of credit shall provide that TU Electric may withdraw the funds thereunder in the event of termination of this Agreement pursuant to Article X hereof in an amount equal to the payments TU Electric has made plus an incremental amount based on the amount of such payments calculated from the time of payment of such funds by TU Electric to the date of termination at the rate of 10.5% per annum. In the event Tex-La fails for any reason to deliver any such letter of credit to

TU Electric, TU Electric shall not make any such payment to Tex-La. In lieu thereof, if Tex-La shall make a payment on the underlying Tex-La Comanche Peak Debt of at least the amount of principal and interest shown on Exhibit A to be payable at such time, TU Electric contemporaneously therewith will deposit the amount of principal and interest shown on such Exhibit A to be payable at such time into a separately segregated trust account, in a bank designated by Tex-La reasonably satisfactory to TU Electric (CFC being a reasonably satisfactory bank), which amount may be invested by Tex-La in its sole discretion. Such funds shall thereafter be held in such separately segregated trust account until the Closing at which time they (including any interest earned thereon) shall be released to Tex-La in reimbursement of the payments on Exhibit A to which such funds related. If, however, this Agreement is thereafter terminated pursuant to Article X hereof, the funds deposited by TU Electric in such separately segregated trust account shall be paid to TU Electric, together with such portion of the interest earned thereon, and, if necessary, such additional funds payable by Tex-La, as shall together equal an incremental amount based on the amount of such deposit calculated from the date of deposit of such funds into trust by TU Electric to the date of payment thereof to TU Electric at the rate of 10.5% per annum.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF TEX-LA

Tex-La represents and warrants to, and agrees with, TU Electric as follows:

2.1 Legal Status. Tex-La is a non-profit electric cooperative corporation, duly organized, validly existing and in good standing under the laws of the State of Texas, with

full, requisite corporate power and authority to carry on its business as now conducted and to own, sell and transfer the Purchased Assets as provided for in this Agreement.

2.2 Authority for Agreement. Tex-La has full, requisite corporate power and authority to execute, deliver and perform this Agreement, the Special Warranty Deed with Vendor's Lien and Bill of Sale, the Assignment and each other agreement and instrument to be executed and delivered in connection with this Agreement, and to carry out its obligations hereunder and thereunder. Tex-La has full, requisite corporate power and authority to act for itself and the other persons or entities acting by, through and under Tex-La for which it has the right and standing under law to act, in connection with this Agreement, the Special Warranty Deed with Vendor's Lien and Bill of Sale and the other agreements and instruments to be executed and delivered by it pursuant hereto. This Agreement has been, and at the time of the Closing, the Special Warranty Deed with Vendor's Lien and Bill of Sale and such other agreements and instruments as are delivered by Tex-La will have been, duly authorized, executed and delivered by Tex-La and this Agreement does, and at the time of Closing, the Special Warranty Deed with Vendor's Lien and Bill of Sale and such other agreements and instruments as are delivered by Tex-La will, constitute valid and legally binding obligations of Tex-La and the other persons or entities acting by, through and under Tex-La for which it has the right and standing under law to act, enforceable against such parties in accordance with their respective terms. Except for the approvals set out in Section 2.3, the execution, delivery and performance of this Agreement, the Special Warranty Deed with Vendor's Lien and Bill of Sale and such other agreements and instruments will not conflict with or result in any violation of, or constitute a default under, (i) the Articles of Incorporation or by-laws of Tex-La, or (ii) any material provision of any mortgage, indenture, lease, agreement or other instrument, including any evidence of indebtedness, including without limitation the

Tex-La Comanche Peak Debt, to which Tex-La, or any of Tex-La's properties or assets, is subject or a party, or (iii) any permit, concession, grant, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Tex-La or any of its property, including the Purchased Assets; or with the passage of time or the giving of notice or the taking of any action by any third party, have any of the effects described herein, except no representation is made with respect to any instrument, permit, concession, grant, franchise or license (and the laws and regulations with respect thereto) made or obtained by TU Electric or the Project Manager on behalf of the Owners.

2.3 Approvals. Tex-La has obtained all necessary consents, approvals, orders and authorizations of, and made all necessary registrations, declarations and filings with, each governmental authority or other entity required in connection with the execution, delivery, and performance by Tex-La of this Agreement, the Special Warranty Deed with Vendor's Lien and Bill of Sale and the other agreements and instruments to be executed and delivered by Tex-La hereunder, except (i) for any such required to be obtained by the Project Manager, (ii) for any such required to be effected from the PUC and NRC referenced in Sections 5.3(b) and (c) hereof, (iii) those that must be obtained from the REA, the CFC and the FFB referenced in Section 5.3(d) and (iv) the consents of Tex-La's Members referenced in Section 5.3(f) hereof. No other filing or registration with, and no other consent, approval, authorization, permit, certificate or order of any court, tribunal or governmental agency or authority, Federal, state, county or municipal, or any other entity is or will be required by any applicable statute or other law or by any judgment, order or decree or any rule or regulation of any court, tribunal or governmental agency or authority, Federal, state, county or municipal, or agreement with any other entity to permit Tex-La to execute, deliver and perform this Agreement, the Special Warranty

Deed with Vendor's Lien and Bill of Sale or any agreement or instrument required hereby to be executed and delivered by it at the Closing.

2.4 Liabilities. Except to the extent specifically provided for in the Assumption Agreement, there are no obligations or liabilities or other obligations or other evidence of indebtedness, of Tex-La, including without limitation the Tex-La Comanche Peak Debt, whether accrued, absolute, contingent or otherwise, which TU Electric may become liable for or is assuming as a result of the purchase of assets provided for herein or which may apply with respect to the Purchased Assets, except such as currently exist with respect to Comanche Peak and which were entered into or incurred by (i) all parties owning interests in Comanche Peak at the time involved acting collectively, or (ii) the Project Manager or TU Electric or both. Tex-La has no indebtedness or other similar obligation relating to its interest in Comanche Peak except for the Tex-La Comanche Peak Debt and the CFC line of credit referred to in definition (nn); and all mortgages, other liens, encumbrances and security interests which apply to Tex-La's interest in Comanche Peak will be released or terminated prior to or at the Closing. The documents delivered to TU Electric under cover of letter of March 21, 1989 from [redacted], Burchette, Ruckert & Rothwell with regard to the Tex-La Comanche Peak Debt [redacted] said letter contain all material information with respect to the unpaid principal balances of the various segments of the Tex-La Comanche Peak Debt as of the date of said letter (which have been changed as of the date hereof only by payment of such debt in the ordinary course in the interim) and the payment, prepayment and interest terms of such debt as of the date hereof and omit no material information with respect thereto. Such information will be true and correct in all material respects at the Closing Date, except for any interim changes imposed by the REA unprompted by Tex-La or changes resulting from payment of such debt in the

ordinary course in the interim. Tex-La will immediately notify TU Electric in writing of any such interim changes imposed by the REA of which it may become aware.

2.5 Taxes. Apart from all taxes and similar charges owed by the Project Manager on behalf of all the Owners collectively, Tex-La owes no taxes or similar charges or impositions with respect to the nonpayment of which would apply, to, or result in any lien or other encumbrance upon, the Purchased Assets to any taxing authority. No tax charge, tax expense or tax claim against the Purchased Assets originating with or caused by the action or inaction of Tex-La individually or in combination with any of the Owners other than TU Electric or the Project Manager will attach to or affect any portion of the Purchased Assets conveyed at the Closing.

2.6 Title to Real Property. Tex-La has such title in and to the Site and all real property interests therein and the real property interests included in the Transmission Facilities as was conveyed to Tex-La by or through TU Electric or by TU Electric's predecessors-in-title. Except in combination with, or in conjunction with action by, all of the Owners of the Site and the real property interests included in the Transmission Facilities acting collectively either directly or through the Project Manager, Tex-La has not encumbered the Site or any of the real property interests therein or the real property interests included in the Transmission Facilities with any mortgages, liens, claims, charges, security interests or encumbrances, except in connection with the Tex-La Comanche Peak Debt, all of which mortgages, liens, claims, charges, security interests and encumbrances pertaining to the Site or any of the real property interests therein or the real property interests included in the Transmission Facilities will be released prior to or at the Closing.

Tex-La, separately or in combination with any or all of the Owners other than TU Electric or the Project Manager, has not taken any action which would result in the

structures, improvements and fixtures on such real property constituting a part of the Site not being in conformity with all applicable Federal, state and local zoning, building, health, safety and environmental laws, ordinances, rules or regulations. No notice from any governmental body, which has not otherwise been disclosed to TU Electric or the Project Manager in writing, has been served upon Tex-La claiming any violation of any such law, ordinance, rule or regulation or requiring any work, repairs, construction, alterations or installation on or in connection with such real property or the buildings, structures, fixtures or improvements thereon, nor to Tex-La's knowledge has any such violation, which has not otherwise been disclosed to TU Electric or the Project Manager in writing, been claimed or action with respect thereto threatened.

2.7 Title to Personal Property. Tex-La has the title to such interest as was conveyed to Tex-La by or through TU Electric or TU Electric's predecessor-in-title in all of the equipment, vehicles, fixtures, machinery and other items of personal property, tangible and intangible, to the extent the same are parts of the Purchased Assets to be conveyed at the Closing. Except in combination or in conjunction with action by TU Electric, the Project Manager or all of the Owners acting collectively, and except in connection with the Tex-La Comanche Peak Debt, the security interests, liens or other encumbrances in connection with which debt pertaining to the equipment, vehicles, fixtures, machinery and other items of personal property, tangible and intangible, which are part of the Purchased Assets will be released prior to or at the Closing, Tex-La has not, apart from any charges owed by the Project Manager on behalf of all of the Owners collectively, encumbered the equipment, vehicles, fixtures, machinery and other items of personal property, tangible and intangible, which are part of the Purchased Assets, with any mortgage, lien, claim, charge, security interest, encumbrance or other restriction or limitation, and assuming payment by TU Electric of any and all transfer taxes that may

become due on account of the transfer of the Purchased Assets contemplated by this Agreement and except for the liens for ad valorem taxes not yet due and payable.

2.8 Litigation. There are no Subject Claims, suits or proceedings, administrative or otherwise, pending (i.e. Tex-La having been served with process with respect thereto or otherwise having knowledge thereof) against Tex-La or, to the best of Tex-La's knowledge, threatened against Tex-La affecting the Purchased Assets, whether such be at law, in court, in equity or in arbitration, or before or by any governmental department, commission, board, bureau, agency or instrumentality which, if adversely determined against Tex-La, would affect Tex-La's ability to perform its obligations under this Agreement, except the Pending Litigation, the NRC licensing docket to which TU Electric is a party, the Pending Houston Suit and the Pending Somervell County Suit; and Tex-La, separately and apart from the Owners in combination or in conjunction with action by all of the Owners acting collectively either directly or through the Project Manager (but without acknowledgment that such exists with reference to the Owners), is not in default with respect to any order, writ, injunction or decree of any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality affecting the Purchased Assets.

2.9 Contracts. There is not in effect any executory contract, agreement, order or commitment to which Tex-La is subject or a party, and to which TU Electric or the Project Manager is not a party, which would bind TU Electric after the Closing with respect to the Purchased Assets and which would adversely affect the value of the Purchased Assets after the Closing.

2.10 Exclusion of Implied Warranties. THE PURCHASED ASSETS ARE BEING SOLD "AS-IS". TEX-LA MAKES NO WARRANTIES CONCERNING THE MERCHANTABILITY OR CONDITION OF THE PURCHASED ASSETS OR OF THEIR

FITNESS FOR ANY PARTICULAR PURPOSE, EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY SET FORTH HEREIN.

2.11 Accuracy of Representations and Warranties. All representations and warranties of Tex-La contained herein are, and will be at the time of the Closing, accurate and complete in all material respects and all documents delivered by Tex-La to TU Electric incident hereto are, and will be at such time, valid and authentic in all respects.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF TU ELECTRIC

TU Electric represents and warrants to, and agrees with, Tex-La as follows:

3.1 Corporate Status. TU Electric is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas with full, requisite corporate power and authority to carry on its business as now conducted and to own, buy and accept the transfer of the Purchased Assets as provided for in this Agreement.

3.2 Authority for Agreement. TU Electric has full, requisite corporate power and authority to execute, deliver and perform this Agreement, to receive delivery of the Special Warranty Deed with Vendor's Lien and Bill of Sale, and to execute, deliver and perform the Assumption Agreement, the Mortgage and each other agreement and instrument to be executed and delivered by TU Electric in connection with this Agreement, and to carry out its obligations hereunder and thereunder. TU Electric has full, requisite corporate power and authority to act for itself and the other persons or entities acting by, through and under TU Electric for which it has the right and standing under law to act in connection with this Agreement, the Assumption Agreement, the Mortgage and the other agreements and instruments to be executed and delivered by it pursuant hereto. This Agreement has been, and at the time of the Closing the Assumption

Agreement, the Mortgage and such other agreements and instruments as are delivered by TU Electric will have been, duly authorized, executed and delivered by TU Electric, and this Agreement constitutes, and at the time of Closing the Assumption Agreement, the Mortgage and such other agreements and instruments will constitute, valid and legally binding obligations of TU Electric and the other persons or entities acting by, through and under TU Electric for which it has the right and standing under law to act, enforceable against such parties in accordance with their respective terms. The execution, delivery and performance of this Agreement, the Assumption Agreement, the Mortgage and such other agreements and instruments will not conflict with or result in any violation of, or constitute a default under, (i) the Articles of Incorporation or by-laws of TU Electric, or (ii) any material provision of any mortgage, indenture, lease, agreement or other instrument to which TU Electric is subject or a party, including any bonds or other obligation or other evidence of indebtedness, or (iii) any permit, concession, grant, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to TU Electric or any of its property, including Comanche Peak; or with the passage of time or the giving of notice or the taking of any action by any third party, have any of the effects described herein.

3.3 Approvals. TU Electric has obtained all necessary consents, approvals, orders and authorizations of, and has made all necessary registrations, declarations and filings with, each governmental authority or other entity required in connection with the execution, delivery, and performance by TU Electric of this Agreement, the Assumption Agreement, the Mortgage and the other agreements and instruments to be executed and delivered by TU Electric hereunder, except for the PUC and NRC as referenced in Sections 5.3(b) and (c) of this Agreement. No other filing or registration with, and no other consent, approval, authorization, permit, certificate or order of any court, tribunal

or governmental agency or authority, Federal, state, county or municipal, or other entity is or will be required by any applicable statute or other law or by any judgment, order or decree or any rule or regulation of any court, tribunal or governmental agency or authority, Federal, state, county or municipal, or agreement with any other entity to permit TU Electric to execute, deliver or perform this Agreement, the Assumption Agreement, the Mortgage or any agreement or instrument required hereby to be executed and delivered by it at the Closing, except as referred to above.

3.4 Authority for TUC Guaranty. TUC has full, requisite corporate power and authority to execute, deliver and perform the Guaranty and to carry out its obligations thereunder. At the Closing, the Guaranty will have been duly authorized, executed and delivered by TUC, and will constitute the valid and legally binding obligation of TUC enforceable against it in accordance with its terms. The execution, delivery and performance of the Guaranty will not conflict with or result in any violation of, or constitute a default under, (i) the Articles of Incorporation or by-laws of TUC, or (ii) any material provision of any mortgage, indenture, lease, agreement or other instrument to which TUC is subject or a party, or (iii) any permit, concession, grant, franchise, license, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to TUC or any of its property; or with the passage of time or the giving of notice or the taking of any action by any third party, have any of the effects described herein.

3.5 Accuracy of Representations and Warranties. All representations and warranties of TU Electric contained herein are, and will be at the time of the Closing, accurate and complete in all material respects and all documents delivered by TU Electric to Tex-La incident hereto are, and will be at such time, valid and authentic in all respects.

ARTICLE IV
PRE-CLOSING OBLIGATIONS

Tex-La and TU Electric, as appropriate, covenant that between the date of this Agreement and the Closing Date:

4.1 Representations, Warranties and Covenants. Tex-La shall not take any action which would result in the representations and warranties set forth in Article II hereof being inaccurate, incorrect or incomplete to the extent applicable as of the Closing Date and Tex-La shall take all such action as may be necessary to insure that all covenants and agreements of Tex-La set forth in this Agreement which are required to be performed by it at or prior to the Closing Date will have been so performed.

TU Electric shall not take any action which would result in the representations and warranties set forth in Article III hereof being inaccurate, incorrect or incomplete to the extent applicable as of the Closing Date and TU Electric shall take all such action as may be necessary to insure that all covenants and agreements of TU Electric set forth in this Agreement which are required to be performed by it at or prior to the Closing Date will have been so performed.

4.2 Abatement of Participation in Pending Litigation. For purposes of this Section 4.2, the term "TU Electric" shall include not only TU Electric but TUC and its subsidiaries, Texas Utilities Mining Company and Texas Utilities Services Inc., all of which are parties to the Pending Litigation.

To the fullest extent that would not violate court orders in effect in the Pending Dallas Suit, Tex-La and TU Electric have and shall continue to abate all of their voluntary activities in connection with the Pending Litigation, and any other activity adverse to each other pertaining thereto. In such regard, Tex-La and TU Electric agree that they have and will continue to direct any attorneys and consultants retained by them in

connection with the Pending Litigation to abate their work. Specifically with regard to the Pending Litigation, Tex-La and TU Electric to the extent specified herein agree to take the following actions:

- (a) Tex-La and TU Electric agree to the continued abatement of the Pending Austin Suit and agree not to revive such action during the pendency of this Agreement and to take any action necessary to oppose such revival. In the event the Pending Dallas Suit is nonsuited in accordance with paragraph (d) hereof, Tex-La shall not claim that such nonsuit entitles Tex-La to revive the Pending Austin Suit;
- (b) Tex-La and TU Electric have filed a joint motion requesting that the Court in the Pending Dallas Suit approve a standstill agreement with respect to the Subject Claims and an order has been entered by the Court pursuant thereto whereby the current scheduling order has been withdrawn with respect to the Subject Claims and no new scheduling order or trial setting has been made; and Tex-La and TU Electric agree that no discovery or any other steps to advance the litigation between Tex-La and TU Electric shall be taken unless this Agreement is terminated or the transactions contemplated hereunder to be consummated prior thereto are not consummated on or prior to the Closing Date, provided, however, any costs incurred and assessed against Tex-La by the Court in the Pending Dallas Suit since approval of such standstill agreement shall be paid by TU Electric until such time as this Agreement is terminated or the transactions contemplated hereunder to be consummated prior thereto are not consummated on or prior to the Closing Date;
- (c) [Deleted Intentionally]

(d) If it is necessary for Tex-La and TU Electric to nonsuit the Subject Claims filed against each other in the Pending Dallas Suit, Tex-La and TU Electric agree that such nonsuits will not operate to prejudice either party's position with respect to the Subject Claims they have made and legal positions they have taken in the Pending Litigation. In the event of such nonsuit, if this Agreement is thereafter terminated or the transactions contemplated hereunder to be consummated prior thereto are not consummated on or prior to the Closing Date, Tex-La and TU Electric agree that their Subject Claims in the Pending Dallas Suit shall be refiled in Dallas County in the New Lawsuit in the 14th Judicial District Court (and if such suit is not assigned initially to such Court, Tex-La and TU Electric agree to thereafter file a Joint Motion to transfer such suit to such Court), within five (5) Business Days after such termination of this Agreement or failure to close hereunder on the Closing Date, with TU Electric named as the plaintiff and Tex-La named as defendant and counter-plaintiff, and that Tex-La will not oppose venue in Dallas County, Texas except to the extent that Tex-La could on the date of this Agreement contest venue in Dallas County, Texas in the Pending Dallas Suit. In the event this Agreement is terminated or the transactions contemplated hereunder to be consummated prior thereto are not consummated on or prior to the Closing Date, Tex-La will retain, without limitation, any and all rights Tex-La may now have to appeal the order of the Court in the Pending Dallas Suit dated September 19, 1986. For all purposes, including, without limitation, (i) any statute of limitations claim, (ii) any claim concerning §16.069 of the Texas Civil Practice and Remedies Code, and (iii) any claim asserted in the Pending Austin Suit (including without limitation, any Subject Claim concerning which

suit was first filed), the New Lawsuit will be considered as having been filed by TU Electric on May 29, 1986, and Tex-La's counterclaim in the New Lawsuit will be considered as having been filed by Tex-La on July 18, 1986. All discovery, including documents produced and depositions taken, which had been conducted in the Pending Dallas Suit up to the execution of this Agreement, shall be for all purposes considered as having been taken in the New Lawsuit, and all orders issued by the Court in the Pending Dallas Suit up to the execution of this Agreement (except the scheduling order but including the Court's September 14, 1988 ruling on Tex-La's motion to realign the parties, the written order for which has not yet been entered) shall have the same force and effect as if they had been issued in the New Lawsuit;

- (e) No efforts made or cooperation given by Tex-La's or TU Electric's officers, employees, agents, consultants, experts or attorneys (including, without limitation, Heron, Burchette, Ruckert & Rothwell and Hughes & Luce, Worsham, Forsythe, Sampels & Wooldridge, Jackson & Walker, Hunton & Williams, Ackles, Ackles & Ackles and Roy Minton) pursuant to or under any provision of this Agreement shall create any conflict of interest which would prevent any such employees, agents, consultants or attorneys from participating adversely to TU Electric or Tex-La, respectively, (if a conflict does not otherwise exist) in any legal proceeding brought by TU Electric against Tex-La and/or by Tex-La against TU Electric should this Agreement be terminated or should the transactions contemplated under this Agreement to be consummated prior thereto not be consummated on or before the Closing Date. TU Electric and Tex-La hereby waive any such conflict of interest which might exist specifically because of any such effort or cooperation; and

(f) If it is necessary to nonsuit the current Subject Claims, as set forth in paragraph (d) above, then in such event upon or at any time after the Closing, if TU Electric requests, Tex-La and TU Electric agree that their Subject Claims in the Pending Dallas Suit shall be refiled in the New Lawsuit in Dallas County and that the New Lawsuit and all such Subject Claims shall then immediately be dismissed with prejudice.

4.3 Agreement to Obtain Approvals. Tex-La shall use all reasonable efforts to obtain with respect to Tex-La and TU Electric shall use all reasonable efforts to obtain with respect to TU Electric all necessary consents, approvals, authorizations, permits, certificates or orders of any court, tribunal or governmental agency or authority, Federal, state, county or municipal, or other entity which are required by any applicable statute or other law or by any judgment, order or decree or any rule or regulation of any court, tribunal or governmental agency or authority, Federal, state, county or municipal, or any agreement or other requirement to permit each of them, respectively, to execute, deliver or perform this Agreement and any agreement or instrument required hereby to be executed and delivered by either of them at the Closing.

ARTICLE V

CONDITIONS TO OBLIGATIONS TO CLOSE

5.1 Conditions to Obligation of Tex-La to Close. The obligation of Tex-La to consummate and close the transactions contemplated by this Agreement at the Closing is subject to the satisfaction of each of the following conditions at or prior to the Closing:

(a) Representations and Warranties. The representations and warranties of TU Electric contained in this Agreement shall have been true and correct on and as of the date hereof and shall be true and correct on and as of the Closing Date in all material respects as though such representations and warranties

had been made on and as of the Closing Date, and TU Electric shall have delivered to Tex-La a certificate, dated as of the Closing Date, of its Chairman of the Board, a Division President or a Vice President to the foregoing effect;

(b) Compliance With Agreement. TU Electric shall have fully performed and complied with all of the covenants, agreements and conditions to be performed or complied with by it at or prior to the Closing (including without limitation its assumption obligations with respect to the Joint Ownership Agreement), and TU Electric shall have delivered to Tex-La a certificate, dated as of the Closing Date, of its Chairman of the Board, a Division President or a Vice President to the foregoing effect;

(c) Receipt of Payment. TU Electric shall have delivered to Tex-La the payments referenced in paragraphs (a) and (b) of Section 1.6 hereof; and

(d) Receipt of Closing Documents. Tex-La shall have received the fully executed Closing documents described in Article VII hereof to be delivered at the Closing.

(e) [Deleted Intentionally]

3.2 Conditions to Obligation of TU Electric to Close. The obligation of TU Electric to consummate the transactions contemplated by this Agreement at the Closing is subject to the satisfaction of each of the following conditions at or prior to the Closing:

(a) Representations and Warranties. The representations and warranties of Tex-La contained in this Agreement shall have been true and correct on and as of the date hereof and shall be true and correct on and as of the Closing Date in all material respects as though such representations and warranties had

been made on and as of the Closing Date, and Tex-La shall have delivered to TU Electric a certificate, dated as of the Closing Date, of its President or Vice President to the foregoing effect;

(b) Compliance with Agreement. Tex-La shall have fully performed and complied with all of the covenants, agreements and conditions to be performed or complied with by it at or prior to the Closing, and Tex-La shall have delivered to TU Electric a certificate, dated as of the Closing Date, of its President or Vice President to the foregoing effect; and

(c) Receipt of Closing Documents. TU Electric shall have received the fully executed Closing documents described in Article VI hereof to be delivered at the Closing.

5.3 Conditions to Obligation of Both Parties to Close. The obligation of each of the parties to consummate the transactions contemplated by this Agreement at the Closing Date is subject to the satisfaction of each of the following conditions at or prior to the Closing Date:

(a) No Adverse Proceeding. There shall not be pending any suit, action or other proceeding by any person before any court or arbitrator or any governmental department, commission, board, bureau, agency or instrumentality in which it is sought to restrain or prohibit any of the transactions contemplated by this Agreement.

(b) Approval by PUC. By final action subject to no further appeal, the PUC shall have approved the transfer to TU Electric of Tex-La's certificate of convenience and necessity with respect to the Station and the Transmission Facilities permitting TU Electric's acquisition and ownership of Tex-La's ownership interest in the Station and the Transmission Facilities in accordance

with the terms hereof. In such connection, to the extent appropriate, TU Electric and Tex-La have filed and are prosecuting to the best of their ability a joint application for approval of the transfer of such certificate of convenience and necessity rights and such other applications or filings with the PUC as shall be necessary and essential in connection with the transactions contemplated under this Agreement. In connection with all such proceedings, each party will bear its own cost and expense of prosecuting such applications or filings.

Upon the issuance by the PUC of any order or other document purporting to give the approval contemplated under this Agreement with or without conditions, the parties, with their respective attorneys and other consultants, shall promptly confer and endeavor in good faith to determine if such order or other document evidences the final approval contemplated by this Agreement without any condition that is deemed by either party to be inconsistent with the provisions of this Agreement. It is understood and agreed that, in connection with such applications and filings, TU Electric and Tex-La have requested the PUC not to prejudge either the reasonableness or the recoverability in TU Electric's rates of the consideration payable hereunder or the ratemaking treatment of the consideration received by Tex-La hereunder and to defer any such determinations to subsequent TU Electric and Tex-La rate cases; however, should the PUC refuse to defer such determination and determine in such certification proceedings that all or any portion of the consideration payable hereunder is unreasonable or shall not be recoverable in TU Electric's rates, such determination shall be deemed by TU Electric to be inconsistent with the provisions of this Agreement and therefore shall be

inconsistent for the purposes hereof. If such determination is affirmative the parties shall promptly execute a stipulation dated currently to such effect. If such determination is negative, the parties, at their own cost and expense, respectively, will undertake to cause the PUC to issue such further order or document evidencing its approval as contemplated by this Agreement, including the elimination of any such condition that was deemed by either party to be inconsistent with this Agreement and upon the issuance of any further order or other document by the PUC in such proceedings the same procedures will be followed by the parties as provided in the case of the order or other document first issued by the PUC in such proceedings, including the execution of a stipulation dated currently evidencing the affirmative action by the parties in respect of the order or other document issued by the PUC. The date of any stipulation executed by the parties under this paragraph is referred to as the "PUC Affirmative Date."

- (c) Approval by NRC. The NRC shall have granted all necessary and essential approvals and consents with respect to the transactions provided for herein, including without limitation the entry of a final non-appealable order approving the sale of Tex-La's right, title and interest in the Station and Fuel to TU Electric in accordance with the terms hereof. In such connection, it is understood and agreed that TU Electric has filed and is prosecuting to the best of its ability all applications or filings with the NRC as shall, in its judgment, be necessary and essential in connection with the transactions contemplated under this Agreement. TU Electric will deliver promptly to Tex-La copies of all such applications and filings and will advise Tex-La on a current basis with respect to the status of any such proceeding. In connection with all such

proceedings, Tex-La will, at Tex-La's reasonable cost and expense, at the request of TU Electric, render all such assistance as may be appropriate under the circumstances, including without limitation, providing such of its personnel as may be appropriate to testify and otherwise participate in any such proceedings in support of this Agreement.

Upon the issuance by the NRC of any order or other document purporting to approve the transactions contemplated under this Agreement with or without conditions, TU Electric will promptly deliver to Tex-La a reproduced legible copy of such order or other document, and the parties, with their respective attorneys and other consultants, shall promptly confer and endeavor in good faith to determine if such order or other document evidences the final approval of the NRC of such transactions contemplated by this Agreement without any condition that is deemed by either party to be inconsistent with the provisions of this Agreement. If such determination is affirmative the parties shall promptly execute a stipulation dated currently to such effect. If such determination is negative, TU Electric, with the assistance of Tex-La, which shall be at Tex-La's reasonable cost and expense, will undertake to cause the NRC to issue such further order or document evidencing its approval of such transactions including the elimination of any such condition that was deemed by either party to be inconsistent with this Agreement and upon the issuance of any further order or other document by the NRC in such proceedings the same procedures will be followed by the parties as provided in the case of the order or other document first issued by the NRC in such proceedings, including the execution of a stipulation dated currently evidencing the affirmative action by the parties in respect to the order or

other document issued by the NRC. The date of any stipulation executed by the parties under this paragraph is referred to as the "NRC Affirmative Date."

- (d) Approval of REA and CFC. The REA shall have granted all necessary and essential approvals and consents with respect to the transactions provided for herein, including without limitation, its joinder in the Assumption Agreement and the Mortgage and receipt of the assignment of the vendors lien contained in the Special Warranty Deed with Vendors Lien and Bill of Sale as a partial payment mechanism and security for such partial payment mechanism with respect to all promissory notes, mortgages, or other evidences of indebtedness and security agreements or arrangements with respect to the payment thereof, that Tex-La may have in favor of the REA, the CFC and the FFB with respect to the Tex-La Comanche Peak Debt, so that at the Closing Date Tex-La and TU Electric will enter into the Assumption Agreement, Mortgage and Assignment and deliver them to the REA in return for which the REA will execute and deliver to Tex-La all such receipts, releases, termination statements and other documents and assurances as shall be necessary or appropriate in the estimation of Tex-La and TU Electric to provide for and evidence the termination and release of all mortgages, liens and other security instruments with respect to the Purchased Assets and provide for the conveyance thereof by Tex-La to TU Electric in accordance with the terms of this Agreement. In addition, the REA shall have entered into the Assumption Agreement thereby accepting the Assumption Agreement as a mechanism for the partial payment of the Tex-La Comanche Peak Debt and the Mortgage and the vendors lien contained in the Special Warranty Deed with Vendors Lien and Bill of Sale as security for the performance of the

Assumption Agreement. In addition, CFC shall have delivered to TU Electric and Tex-La its written consent to the transactions provided for herein in form and content satisfactory to TU Electric and Tex-La. In such connection, it is understood and agreed that Tex-La has carried on discussions with the REA and the CFC in order to obtain their consent and agreement in the foregoing respects. In connection with all such undertakings, TU Electric will, at TU Electric's cost and expense, at the request of Tex-La, render all such assistance as may be appropriate under the circumstances, including without limitation, providing such of its personnel as may be appropriate to participate in any such undertakings in support of this Agreement.

- (e) Execution of Amended and Restated Power Supply Agreement, Amended and Restated Transmission Agreement and Amended and Restated Distribution Service Agreement. Tex-La and TU Electric shall have executed the form of Amended and Restated Power Supply Agreement attached hereto as Exhibit G, the form of Amended and Restated Transmission Agreement attached hereto as Exhibit H, and the form of Amended and Restated Distribution Service Agreement attached hereto as Exhibit I, it being specifically understood that TU Electric does not hold itself out generally to perform the contractual duties specified in said Amended and Restated Power Supply Agreement or Amended and Restated Distribution Service Agreement or all of the duties specified in said Amended and Restated Transmission Agreement, that same are not incidents of any obligation of a public utility, and that TU Electric would not enter into said Amended and Restated Power Supply Agreement or Amended and Restated Transmission Agreement or Amended and Restated Distribution Service Agreement or perform such contractual duties but for the

unique and unusual circumstances attendant to Tex-La's ownership interest in Comanche Peak and the considerations made to TU Electric through Tex-La's execution and performance of this Agreement and the other agreements and instruments to be executed and delivered pursuant to this Agreement for the consideration herein and therein expressed and the desirability of facilitating the transition by Tex-La from being essentially a full requirements wholesale customer of TU Electric to Tex-La's establishment of its own separate and independent Electric Reliability Council of Texas Control Area.

- (f) Consents of Members. The Boards of Directors of each of the Members of Tex-La shall have duly adopted resolutions authorizing and approving the execution, delivery and performance of this Agreement and the other agreements and instruments to be delivered to TU Electric at the Closing, including the releases and covenants not to sue granted by Tex-La on the Members' behalf in and pursuant to Sections 9.1, 9.2 and 9.7 hereof and copies of each of such resolutions certified by the Member's respective corporate secretaries as of the day preceding the Closing Date shall have been delivered to TU Electric, provided that it shall not be a non-compliance by Tex-La herewith solely because the Boards of Directors of the Members have approved the Original Agreement and do not specifically approve this Agreement (it being understood that all other references in this Agreement to this Agreement shall be considered to mean the Agreement as amended hereby), if the express approval of this Agreement by the Boards of Directors of the Members is not otherwise required or necessary under the other provisions of this Agreement in order for such other provisions to be complied with.

ARTICLE VI
CLOSING DOCUMENTS FROM TEX-LA

Tex-La and the referenced attorneys, in each case as appropriate, will deliver to TU Electric on the Closing Date the following:

6.1 Deeds and Transfers, etc. (i) An executed and acknowledged Special Warranty Deed with Vendor's Lien and Bill of Sale; (ii) duplicate counterparts executed by Tex-La of the agreements contemplated under Section 5.3(e) hereof; and (iii) the executed Release, Covenant Not to Sue and Indemnity Agreement specified in Sections 9.1, 9.2 and 9.5 hereof.

6.2 Lien Search. Real property search certificates from a reputable title company (exception for Johnson and Tarrant Counties) and a UCC search certificate from the Secretary of State of Texas disclosing no security interests, judgments or other liens outstanding against Tex-La's ownership interest in the Purchased Assets, other than the Permitted Exceptions and liens securing the Tex-La Comanche Peak Debt to be released at or prior to the Closing.

6.3 Certificate of Secretarial Officer. (i) A certificate of the Secretary of the Board of Directors of Tex-La, dated the Closing Date, with respect to the incumbency of officers and their signatures, the existence and good standing of Tex-La, and the due adoption of resolutions by the Board of Directors and the legally requisite number of Members of Tex-La authorizing and approving the execution, delivery and performance of this Agreement and the other agreements and instruments to be delivered to TU Electric at the Closing and (ii) copies of such resolutions of such Board of Directors and Members, provided that it shall not be a non-compliance by Tex-La herewith solely because the requisite number of Members have approved the Original Agreement and do not specifically approve this Agreement (it being understood that all other references in this

Agreement to this Agreement shall be considered to mean the Agreement as amended hereby), if the express approval of this Agreement by the requisite number of Members is not otherwise required or necessary under the other provisions of this Agreement in order for such other provisions to be complied with.

6.4 Counsel Opinion. An Opinion of Heron, Burchette, Ruckert & Rothwell, counsel for Tex-La, dated the Closing Date and addressed to TU Electric in the form set forth in Exhibit J attached hereto.

ARTICLE VII CLOSING DOCUMENTS FROM TU ELECTRIC

TU Electric and the referenced attorneys, in each case as appropriate, will deliver to Tex-La on the Closing Date the following:

7.1 Proof of Payment. Proof of the payment to Tex-La pursuant to Section 1.6(b) hereof.

7.2 Other Instruments. (i) The executed Assumption Agreement and Mortgage; (ii) duplicate counterparts executed by TU Electric of the agreements contemplated under Section 5.3(e) hereof; and (iii) the executed Release, Covenant Not to Sue and Assumption and Indemnity Agreement specified in Sections 9.3, 9.4 and 9.5 hereof; and (iv) the executed Guaranty.

7.3 Certificate of Secretarial Officer. (i) A certificate of the Secretary or an Assistant Secretary of TU Electric and of TUC, dated the Closing Date, with respect to the incumbency of officers and their signatures, corporate existence and good standing, and, in the case of TU Electric, the due adoption of resolutions of the Board of Directors of TU Electric authorizing and approving the execution, delivery and performance of this Agreement and the other agreements and instruments to be delivered by TU Electric to Tex-La pursuant hereto at the Closing and, in the case of TUC, the due adoption of

resolutions of the Board of Directors of TUC authorizing the execution, delivery and performance of the Guaranty to be delivered by TUC to Tex-La pursuant hereto at the Closing and (ii) copies of such resolutions, provided that it shall not be a non-compliance by TU Electric or TUC herewith solely because the Board of Directors of TU Electric and TUC have approved the Original Agreement and do not specifically approve this Agreement (it being understood that all other references in this Agreement to this Agreement shall be considered to mean the Agreement as amended hereby), if the express approval of this Agreement by the Boards of Directors of TU Electric and TUC is not otherwise required or necessary under the other provisions of the Agreement in order for such provisions to be complied with.

7.4 Counsel's Opinion. An opinion of Worsham, Forsythe, Sampels & Wooldridge, counsel for TU Electric and TUC, dated the Closing Date and addressed to Tex-La in the form set forth in Exhibit K attached hereto.

ARTICLE VIII CLOSING AND INDEMNIFICATION

8.1 Indemnification by Tex-La. Tex-La agrees to indemnify, hold harmless and defend TU Electric and anyone related to or affiliated with TU Electric, including its parent, subsidiaries and affiliates and anyone related to or affiliated with such parent, subsidiaries or affiliates, from and against any and all claims, demands, liabilities, losses, costs and expenses, including reasonable attorneys' fees, which TU Electric or anyone related to or affiliated with TU Electric, including its parent, subsidiaries and affiliates and anyone related to or affiliated with such parent, subsidiaries or affiliates, may sustain and which arise out of or are based upon or relate to the inaccuracy or falsity of any representation or warranty made by Tex-La set forth in this Agreement or in any other agreement or instrument delivered pursuant hereto or the breach or nonperformance by

Tex-La of any covenant or agreement with TU Electric or anyone related to or affiliated with TU Electric, including its parent, subsidiaries and affiliates and anyone related to or affiliated with such parent, subsidiaries or affiliates, made by Tex-La set forth in this Agreement or in any other agreement or instrument delivered pursuant hereto.

8.2 Indemnification by TU Electric. TU Electric agrees to indemnify and hold harmless and defend Tex-La and Tex-La's Members and anyone related to or affiliated with Tex-La and Tex-La's Members from and against any and all claims, demands, liabilities, losses, costs and expenses, including reasonable attorneys' fees, which Tex-La, its Members or anyone related to or affiliated with Tex-La or its Members may sustain and which arise out of or are based upon or relate to the inaccuracy or falsity of any representation or warranty made by TU Electric set forth in this Agreement or in any other agreement or instrument delivered pursuant hereto or the breach or nonperformance by TU Electric of any covenant or agreement with Tex-La, its Members or anyone related to or affiliated with Tex-La or its Members made by TU Electric set forth in this Agreement or in any agreement or instrument delivered pursuant hereto.

8.3 Survival of Representation and Warranties. The representations, warranties, covenants and agreements of the parties hereto shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder for a period of four (4) years after the Closing Date or for such longer period as may be commensurate therewith for any document delivered pursuant hereto which is in effect for a longer period than such four years.

8.4 Notice and Opportunity to Participate in Defense. In the event that Tex-La, its Members or TU Electric or any of its parent, subsidiaries or affiliates, or anyone related to or affiliated with any of them, receives notice of the commencement of any action or proceeding or the assertion of any claim in respect of which Tex-La, its

Members or TU Electric or any of its parent, subsidiaries or affiliates, or anyone related to or affiliated with any of them, may be entitled to indemnification, the party receiving such notice shall give the indemnifying party written notice within ten (10) calendar days thereof (except that failure to so notify will not relieve the indemnifying party of its obligations hereunder except to the extent it has been prejudiced thereby) and the opportunity to participate in the defense thereof and in any settlement negotiations with respect thereto, and will cooperate with the other party in all reasonable respects and make available to the other party all records, evidence and personnel for consultation and testimony reasonably requested by the other party in connection therewith. The settlement of any such action, proceeding or claim without the prior written approval of the indemnifying party shall relieve such party of any obligations to the indemnified party in respect of the subject matter of the settlement of such action, proceeding or claim.

ARTICLE IX
SETTLEMENT OF PENDING LITIGATION

9.1 Tex-La's Release. Upon the Closing, Tex-La, for itself and on behalf of any person or entity, private or governmental, claiming by, through or under Tex-La, including without limitation, to the extent it has the standing and right under law to do so, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives, shall waive, release, discharge, renounce and relinquish any and all Subject Claims involving, concerning, accruing in, arising out of, or relating to the period of time prior to the Closing which it has or they have claiming by, through or under Tex-La, or may have, whether known or unknown, contingent or absolute, including, without limitation, those based on common law, whether contract (express or implied, including express or implied warranty) or tort

(including, without limitation, intentional tort, negligence or gross negligence, sole, joint or concurrent) or strict liability or fraud, and those based upon any Federal, state or local statute, law, order or regulation, including, without limitation, the Atomic Energy Act of 1954, as amended, the regulations of the NRC, the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and any rule or regulation under either, the Texas Securities Act (Title 19, Articles 581-1, et seq., V.A.T.S.), the Texas Declaratory Judgment Act (Secs. 37.0001-.011 of the Texas Civil Practice and Remedies Code) and the Texas Deceptive Trade Practices and Consumer Protection Act, against TU Electric or TUC, or both, in any capacity, whether individually, as Project Manager of Comanche Peak or otherwise, and their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present, and any and all of their respective successors, subsidiaries and affiliates and their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present, except (1) Subject Claims arising out of or under this Agreement or any of the other agreements or instruments executed and delivered pursuant hereto, (2) Claims which do not relate to Comanche Peak and are based upon circumstances or facts unknown (and which could not reasonably have been known) to Tex-La at the time of execution of this Agreement and the Release, (3) any defenses which Tex-La has or may have to Subject Claims asserted against Tex-La by any persons or parties whomsoever, provided that Tex-La may not seek any type of affirmative relief hereunder against TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, and (4) any counterclaims which Tex-La has or may have against any party other than TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective

insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, acting in such capacity, with respect to any Subject Claims being asserted against Tex-La by anyone other than TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives. In connection with clause (2) of the immediately preceding sentence, Tex-La represents that it presently is unaware of any Subject Claim with TU Electric which has not been addressed and resolved by this Agreement and the exhibits hereto. Tex-La hereby covenants and warrants that it has not assigned any Subject Claims that are to be released at the Closing. At the Closing, Tex-La will execute and deliver to TU Electric the form of Release attached hereto as Exhibit L.

9.2 Tex-La Covenant Not to Sue.

- (a) Except as provided for in Section 4.2(f) hereof, upon the Closing, Tex-La, for itself and on behalf of any person or entity, private or governmental, claiming by, through or under Tex-La, including without limitation, to the extent it has the standing and right under law to do so, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives shall agree and covenant that it and they, individually, collectively or in any combination, will forebear from asserting against, and never sue for or look for satisfaction with respect to, TU Electric and TUC and their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present, and any and all of their respective successors, subsidiaries and affiliates and their respective insurers, agents,

servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present, any Subject Claim (including without limitation any Subject Claim against any contractor, subcontractor, supplier, consultant, vendor or other person, firm or entity in privity in any manner with any of them which may therefor or as a result thereof have a right over or Subject Claim in subrogation) in any manner involving, concerning, arising out of, or relating to, the planning, design, construction and licensing of Comanche Peak and the management of such planning, design, construction or licensing, or any other matter relating to the planning, design, construction or licensing of Comanche Peak, and the management, procurement, conversion, enrichment, fabrication, shipping, transportation and storage of the Fuel, which it has or they have claiming by, through or under Tex-La, or may have, whether known or unknown, contingent or absolute, including, without limitation, those based on common law, whether contract (expressed or implied, including express or implied warranty) or tort (including, without limitation, intentional tort, negligence or gross negligence, sole, joint or concurrent) or strict liability or fraud, and those based upon any Federal, state or local statute, law, order or regulation, including, without limitation, the Atomic Energy Act of 1954, as amended, the regulations of the NRC, the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and any rule or regulation under either, the Texas Securities Act (Title 19, Articles 581-1, et seq., V.A.T.S.) and the Texas Deceptive Trade Practices and Consumer Protection Act, against TU Electric or TUC, or both, in any capacity, whether individually, as Project Manager of Comanche Peak or otherwise, and their respective insurers, agents, servants, employees,

officers, directors, shareholders, consultants, attorneys and representatives, past and present, and any and all of their respective successors, subsidiaries and affiliates and their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present.

- (b) Except as provided in Section 4.2(f) hereof, Tex-La, for itself and on behalf of any person or entity, private or governmental claiming by, through or under Tex-La, including without limitation, to the extent it has the standing and right under law to do so, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives hereby further agrees and covenants that, upon and after the Closing, neither it nor they claiming by, through or under Tex-La, individually, collectively or in any combination, will directly or indirectly, oppose, challenge, contest or assert any complaint in any court or before any administrative agency or body or in any other forum whatsoever with respect to, or in any manner involving, concerning, arising out of, or relating to, Comanche Peak and the incidents and attributes thereof including, without limitation, the planning, design, construction and licensing of Comanche Peak and the management of such planning, design, construction or licensing or any other aspect of such planning, design, construction or licensing, the costs and schedule of construction and completion of Comanche Peak, and the reasonableness, prudence or efficiency of the planning, design, construction and licensing of Comanche Peak and the management of such planning, design, construction or licensing, and the reasonableness, prudence or

efficiency of the management, procurement, conversion, enrichment, fabrication, shipping, transportation and storage of the Fuel, and the costs incurred in connection with the management, procurement, conversion, enrichment, fabrication, shipping, transportation and storage of the Fuel, and the breach of the Joint Ownership Agreement and any express or implied warranties arising out of the Joint Ownership Agreement, and any representation, misrepresentation, disclosure or non-disclosure in connection with the negotiations or preceding the execution by Tex-La of the Joint Ownership Agreement, and in connection with the performance or nonperformance by TU Electric of its duties, responsibilities or obligations under the Joint Ownership Agreement as Project Manager or otherwise, and the failure of TU Electric to pursue any remedies, either at law or otherwise, that may be, or may have been, available against or and all contractors, subcontractors, suppliers, consultants, vendors or others with respect to Comanche Peak (including separately the Station, Fuel or Transmission Facilities) and on account of anything that has occurred or may have occurred, in whole or in part, with respect to Comanche Peak, (including separately the Station, Fuel or Transmission Facilities) and the incidents and attributes thereof and any of the foregoing whether known or unknown. Notwithstanding any other provisions of this Agreement, nothing herein shall limit Tex-La's right to defend the prudence of its participation in Comanche Peak or the settlement of the Pending Litigation before any court or regulatory agency; provided, however, that since TU Electric by this Agreement is reimbursing Tex-La for its attorneys fees and other litigation costs related to the Pending Litigation, in no event shall Tex-La use any information obtained by it or its

attorneys, through discovery in the Pending Litigation in any manner adverse to TU Electric and in no event shall Tex-La contend, plead, assert, or claim in any proceeding that TU Electric or the Project Manager under the Joint Ownership Agreement acted imprudently or that any costs associated with the planning, design, construction and licensing of Comanche Peak and the management of such planning, design, construction or licensing were imprudently incurred; provided further however, that this sentence shall not prohibit Tex-La from furnishing factual information in response to a specific discovery request and shall not require any representative of Tex-La to violate any obligation to tell the truth under oath in response to a specific request therefor.

- (c) Notwithstanding anything contained in paragraphs (a) or (b) of this Section 9.2 or elsewhere in this Agreement, Tex-La specifically does not covenant not to sue, and specifically does not agree to not assert, challenge or contest, with regard to:
- (1) Subject Claims arising out of or under this Agreement or any of the other agreements or instruments to be delivered pursuant hereto;
 - (2) Subject Claims which could not have been brought in the Pending Litigation and which accrue on or after the Date of Commercial Operation (as that term is defined in the Joint Ownership Agreement) and which are based upon the acts or omissions of TU Electric or the Project Manager other than in connection with the planning, design, construction and licensing of Comanche Peak and the management of such planning, design, construction and licensing;
 - (3) any defenses which Tex-La has or may have to Subject Claims asserted against Tex-La by any persons or parties whomsoever, provided that Tex-La may not seek any type of affirmative relief hereunder against TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives;

- (4) any counterclaims which Tex-La has or may have against any party other than TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, acting in such capacity, with respect to any Subject Claims being asserted against Tex-La by anyone other than TU Electric, TUC, or both, their successors, subsidiaries and affiliates, or its or their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives; or
- (5) any proceeding in which TU Electric's rates are being determined, provided that Tex-La shall not oppose, or assist any third party in opposition to, the inclusion in TU Electric's rates of any and all costs related to Comanche Peak.
- (d) At the Closing, Tex-La will execute and deliver to TU Electric the form of Covenant Not to Sue attached hereto as Exhibit M. Further, Tex-La covenants and agrees that it will cooperate and assist TU Electric in connection with all necessary approvals of this Agreement and that it will encourage and solicit its attorneys, including Heron, Burchette, Ruckert & Rothwell and Hughes & Luce, and Tex-La's consultants, not to oppose or assist any third party in opposing TU Electric in connection with any matters relating to Comanche Peak; and, if necessary to prevent a conflict of interest, it being understood and agreed that Tex-La's consultants and attorneys may have obtained or developed information regarding Comanche Peak in the course of the Pending Litigation that arguably could be inequitable for them to otherwise utilize in view of the consideration being rendered by TU Electric hereunder in order to obtain a final settlement of the matters referred to in this Agreement, Tex-La covenants and agrees that it will take all such action as may be necessary or appropriate in order to prevent the consultants and attorneys, including Heron, Burchette, Ruckert & Rothwell and Hughes & Luce, employed by it in connection with, the Pending Litigation, from

participating or assisting in any manner adverse to Tex-La's duty of cooperation herein or to TU Electric in connection with the Pending Litigation, the Pending Houston Suit, the Pending Somervell County Suit or any current or future proceedings or matter before the PUC or the NRC involving or relating to Comanche Peak, or any current or future proceedings before any court or before any administrative agency or body or in any other forum whatsoever with respect to, or in any manner involving, concerning, arising out of, or relating to: (i) the acts or omissions of TU Electric or the Project Manager referred to or in question in the Pending Litigation or which could have been brought into question in the Pending Litigation; or (ii) the acts or omissions of TU Electric or the Project Manager with respect to Comanche Peak that occur, in whole or in part, prior to the Date of Commercial Operation (as said term is defined in the Joint Ownership Agreement). The covenant set forth in the prior sentence shall survive the Closing hereunder and remain in force until the expiration of any Subject Claim covered thereby. Nothing contained in this Section 9.2(d) shall be construed to prohibit said attorneys and consultants from representing Tex-La in connection with the matters described in subparagraphs (1) through (5) of Section 9.2(c). For the purposes of this paragraph, it is recognized that Tex-La can only encourage and solicit its consultants to take or refrain from taking certain actions and does not have the right to prevent or cause such actions on their part.

9.3 TU Electric Release. Upon the Closing, TU Electric, for itself and on behalf of its parent, TUC, and their subsidiaries and affiliates and on behalf of any person or entity, private or governmental, claiming by, through or under TU Electric or TUC, including without limitation, to the extent it has the standing and right under law to do so,

their customers and shareholders and their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives shall waive, release, discharge, renounce and relinquish any and all Subject Claims involving, concerning, accruing in, arising out of, or relating to the period of time prior to the Closing which it has or they have claiming by, through or under TU Electric or TUC, or may have, whether known or unknown, contingent or absolute, including, without limitation, those based on common law, whether contract (express or implied, including express or implied warranty) or tort (including, without limitation, intentional tort, negligence or gross negligence, sole, joint or concurrent) or strict liability or fraud, and those based on any Federal, state or local statute, law, order or regulation, including, without limitation, the Atomic Energy Act of 1954, as amended, the regulations of the NRC, the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and any rule or regulation under either, the Texas Securities Act (Title 19, Articles 581-1, et seq., V.A.T.S.), the Texas Declaratory Judgment Act (Secs. 37.0001-.011 of the Texas Civil Practice and Remedies Code) and the Texas Deceptive Trade Practices and Consumer Protection Act, against Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) in any capacity, whether individually or otherwise, and its and their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives, past and present, and any and all of their respective successors, subsidiaries and affiliates and their respective insurers, agents, servants, employees, officers, directors, members, consultants, attorneys, and representatives, past and present, except (1) Subject Claims arising out of or under this Agreement or any of the other agreements and instruments executed and delivered pursuant hereto, (2) Subject Claims which do not relate to Comanche Peak and are based upon circumstances or facts unknown (and which could not

reasonably have been known) to TU Electric at the time of execution of this Agreement and the Release, (3) any defenses which TU Electric has or may have to Subject Claims asserted against TU Electric by any persons or parties whomsoever, provided that TU Electric may not seek any type of affirmative relief hereunder (other than rate relief pursuant to the provisions of the Public Utility Regulatory Act, Article 1446c, V.A.T.S.) against Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives, and (4) any counterclaims which TU Electric has or may have against any party other than Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives, acting in such capacity (other than in connection with rate relief pursuant to the provisions of the Public Utility Regulatory Act, Article 1446c, V.A.T.S.) with respect to any Subject Claims being asserted against TU Electric by anyone other than Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), individually or otherwise, or their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives. In connection with clause (2) of the immediately preceding sentence, TU Electric represents that it presently is unaware of any Subject Claim with Tex-La which has not been addressed and resolved by this Agreement and the exhibits hereto. Notwithstanding the foregoing, nothing herein shall prohibit TU Electric from charging Tex-La, or collecting from Tex-La, for any electric power and energy purchased by Tex-La from TU Electric in accordance with the rates set forth in TU Electric's tariff as same may be approved and in effect from time to time even though said rates may include costs related to Comanche Peak. TU Electric hereby covenants and warrants that it has not assigned any Subject

Claims that are to be released at the Closing. At the Closing, TU Electric will execute and deliver to Tex-La the form of Release attached hereto as Exhibit N.

9.4 TU Electric Covenant Not to Sue.

- (a) Except as provided for in Section 4.2(f) hereof, upon the Closing, TU Electric, for itself and on behalf of its parent, TUC, and their subsidiaries and affiliates, and any person or entity, private or governmental, claiming by, through or under TU Electric or TUC, including without limitation, to the extent it has the standing and right under law to do so, their customers and shareholders, and their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives shall agree and covenant that it and they claiming by, through or under TU Electric or TUC, individually, collectively or in any combination, will forbear from asserting against, and never sue for or look for satisfaction with respect to, Tex-La and its Members and their respective insurers, agents, servants, employees, officers, directors, members, consultants, attorneys and representatives, past and present, and any and all of their respective successors, subsidiaries, and affiliates and their respective insurers, agents, servants, employees, officers, directors, shareholders, members, consultants, attorneys and representatives, past and present, any Subject Claim in any manner involving, concerning, arising out of, or relating to Comanche Peak, and the management, procurement, conversion, enrichment, fabrication, shipping, transportation and storage of the Fuel.
- (b) Except as provided for in Section 4.2 (f) hereof, TU Electric, for itself and on behalf of its parent, subsidiaries and affiliates, and any person or entity, private or governmental, claiming by, through or under them, including

without limitation, to the extent it has the standing and right under law to do so, its or their customers and shareholders, and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives hereby further agrees and covenants that, upon and after the Closing, neither it nor they claiming by, through or under TU Electric or TUC, individually, collectively or in any combination, will directly or indirectly oppose, challenge, contest or assert any complaint against Tex-La or its Members in any court or before any administrative agency or body or in any other forum whatsoever with respect to, or in any manner involving, concerning, arising out of, or relating to, Comanche Peak and the Joint Ownership Agreement and in connection with the performance or nonperformance by Tex-La of its duties, responsibilities or obligations under the Joint Ownership Agreement, and on account of anything that has occurred or may have occurred, in whole or in part, with respect to Comanche Peak, (including separately the Station, Fuel, or Transmission Facilities) and the incidents and attributes thereof and any of the foregoing whether known or unknown.

- (c) Notwithstanding anything contained in paragraphs (a) and (b) of this Section 9.4 or elsewhere in this Agreement, TU Electric specifically does not covenant not to sue, and specifically does not agree not to assert, challenge or contest, with regard to:
- (1) Subject Claims arising out of or under this Agreement or any other agreement or instrument executed and delivered pursuant hereto;
 - (2) any right or authority to charge Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), for any electric power and energy purchased by any of them from TU Electric in accordance with the rates set forth in TU Electric's tariff as same may be approved and in effect

from time to time even though said rates may include costs related to Comanche Peak;

- (3) any defenses which TU Electric has or may have to Subject Claims asserted against TU Electric by any persons or parties whomsoever, provided that TU Electric may not seek any type of affirmative relief hereunder (other than rate relief pursuant to the provisions of the Public Utility Regulatory Act; Article 1446c, V.A.T.S.) against Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives; or
 - (4) any counterclaims which TU Electric has or may have against any party other than Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives, acting in such capacity (other than in connection with rate relief pursuant to the provisions of the Public Utility Regulatory Act, Article 1446c, V.A.T.S.) with respect to any Subject Claims being asserted against TU Electric by anyone other than Tex-La, its Members and customers (including the customers of Tex-La's Members and other wholesale customers), individually or otherwise, or their respective insurers, agents, employees, officers, directors, consultants, attorneys and representatives.
- (d) At the Closing, TU Electric will execute and deliver to Tex-La the form of Covenant Not to Sue attached hereto as Exhibit O. Further, TU Electric covenants and agrees that it will encourage and solicit its attorneys, including Worsham, Forsythe, Sampels & Wooldridge, Jackson & Walker, Hunton & Williams, Ackles, Ackles & Ackles and Roy Minton, and TU Electric's consultants, not to oppose or assist any third party in opposing Tex-La in connection with any matters relating to Comanche Peak; and, if necessary to prevent a conflict of interest, it being understood and agreed that TU Electric's separately employed consultants and attorneys may have obtained or developed information regarding Tex-La in the course of the Pending Litigation that arguably could be inequitable for them to otherwise utilize in view of the consideration being rendered by Tex-La hereunder in

order to obtain a final settlement of the matters referred to in this Agreement, TU Electric covenants and agrees that it will take all such action as may be necessary or appropriate in order to prevent the consultants and attorneys, including Worsham, Forsythe, Sampels & Wooldridge, Jackson & Walker, Hunton & Williams, Ackles, Ackles & Ackles and Roy Minton, employed by it in connection with the Pending Litigation or otherwise, from participating or assisting in any manner adverse to TU Electric's duty of cooperation herein or to Tex-La in connection with any current or future proceedings or matter before the PUC involving or relating to Comanche Peak, or any current or future proceedings before any court or before any administrative agency or body or in any other forum whatsoever with respect to, or in any manner involving, concerning, arising out of, or relating to the acts or omissions of Tex-La referred to or in question in the Pending Litigation or which could have been brought into question in the Pending Litigation. The covenant set forth in the prior sentence shall survive the Closing and remain in force until the expiration of any Subject Claim covered thereby. Nothing contained in this Section 9.4(d) shall be construed to prohibit said attorneys and consultants from representing TU Electric in connection with the matters described in subparagraphs (1) and (4) of Section 9.4(c) hereof, and said attorneys and consultants may also represent TU Electric in connection with proceedings in which TU Electric's rates are being determined even though said rates may include costs related to Comanche Peak.

9.5 Assumption of Liabilities and Obligations and Indemnification. Effective upon the Closing TU Electric agrees to assume all of the duties, responsibilities, liabilities and obligations of Tex-La under the Joint Ownership Agreement. Further, effective upon the

Closing, TU Electric agrees to indemnify, hold harmless and defend Tex-La and its Members and customers (including the customers of Tex-La's Members and other wholesale customers) from and against all Subject Claims for any alleged acts of the Project Manager, its agents, servants, employees or independent contractors acting on behalf of the Project Manager which may be asserted against Tex-La and its Members and customers (including the customers of Tex-La's Members and other wholesale customers) by any third party (other than Tex-La's Members and customers and the customers of Tex-La's Members or other wholesale customers acting in such capacity), including without limitation Subject Claims predicated upon the alleged actual or imputed negligence or gross negligence of Tex-La and its Members and customers (including the customers of Tex-La's Members and other wholesale customers) arising out of or connected with, the location, planning, design, construction, licensing, condition, maintenance, operation and decommissioning of Comanche Peak, including but not limited to all claims asserted or which might have been or might hereafter be asserted in the Pending Houston Suit and in the Pending Somervell County Suit; provided, however, that TU Electric specifically shall not indemnify Tex-La and its Members and customers (including the customers of Tex-La's Members and other wholesale customers) in connection with any Subject Claims which may be asserted by Tex-La's Members and customers, and the customers of Tex-La's Members or other wholesale customers, or creditors, acting in such capacity, which in any manner relate to Tex-La's participation as an Owner of Comanche Peak or as a party to the Joint Ownership Agreement or Tex-La's decision to enter into the Joint Ownership Agreement, or by reason of Tex-La's involvement in the Pending Litigation, or by reason of Tex-La's decision to purchase an interest in Comanche Peak or the manner of its oversight of the project or its decision to sell its interest hereby to settle the Pending Litigation, or by reason of the execution of

this Agreement and participation in the transactions provided for herein, and provided further, that TU Electric specifically shall not indemnify Tex-La and its Members and customers (including the customers of Tex-La's Members and other wholesale customers) in connection with any Subject Claims which may be asserted by Brazos or TMPA or others which arise by reason of Tex-La's participation in the Pending Litigation, or which are asserted solely by reason of the actions of Tex-La in connection with the execution of this Agreement and participation in the transactions provided for herein. TU Electric will, in addition to providing such indemnity, assume the defense of Tex-La and its Members and customers (and the customers of Tex-La's Members and other wholesale customers) in any tribunal where any such claim is asserted. Pursuant hereto, at the Closing TU Electric will execute and deliver to Tex-La the form of Assumption and Indemnity Agreement attached hereto as Exhibit P. Effective upon the Closing, Tex-La agrees to indemnify, hold harmless and defend TU Electric, TUC and their respective subsidiaries, affiliates and customers from and against any and all Subject Claims of Tex-La or anyone related to or affiliated with Tex-La, including Tex-La's Members, customers (including the customers of Tex-La's Members and other wholesale customers) and creditors, acting in such capacity, relating to Tex-La's execution of, or participation in, the Joint Ownership Agreement, Tex-La's execution of this Agreement and participation in the transactions provided for herein, and Tex-La's activities as an Owner separate and apart from joint activities with all other Owners or activities by, through and under the Project Manager. Further, effective upon the Closing, Tex-La agrees to indemnify, hold harmless and defend TU Electric, TUC and their respective subsidiaries, affiliates and customers from and against any and all Subject Claims of Tex-La or anyone related to or affiliated with Tex-La, including Tex-La's Members and, to the extent they are acting in such capacity, Tex-La's customers (including the customers of Tex-La's

Members and other wholesale customers) and creditors, with respect to, or in any manner involving, concerning, arising out of, or relating to: (i) the acts or omissions of TU Electric or the Project Manager referred to or in question in the Pending Litigation or which could have been brought into question in the Pending Litigation, including without limitation Subject Claims based upon the negligence or gross negligence, sole, joint or concurrent, of TU Electric or the Project Manager; and (ii) the acts or omissions of TU Electric or the Project Manager with respect to Comanche Peak that occur, in whole or in part, prior to the Date of Commercial Operation (as said term is defined in the Joint Ownership Agreement), including without limitation Subject Claims based upon the negligence or gross negligence, sole, joint or concurrent, of TU Electric or the Project Manager. Pursuant hereto, at the Closing Tex-La will execute and deliver to TU Electric the form of Indemnity Agreement attached hereto as Exhibit Q.

9.6 Covenant of Cooperation. The parties hereby covenant and agree to assist, cooperate with, and support each other (other than financial support) in the event that a third party institutes any action against either of them with respect to Comanche Peak and any incident or attribute thereof, except that neither of them shall be required to take any position which it believes is contrary to its material pecuniary interests or contrary to the truth.

9.7 Termination of Participation. To the extent that Tex-La can, and not be in violation of Section 210 of the Energy Reorganization Act, 42 USC Section 5851 (1983), Tex-La, for itself and on behalf of any person or entity, private or governmental, claiming by, through or under Tex-La, including without limitation, to the extent it has the standing and right under law to do so, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and

representatives, agrees and covenants to continue to abate any and all currently pending actions whatsoever, directly or indirectly, involving or relating to the prosecution or processing of any Subject Claims in any way relating to Comanche Peak against TU Electric or TUC, or their respective directors, officers, employees, agents, insurers, consultants or attorneys, past or present, and any and all of their respective successors, subsidiaries and affiliates and their respective insurers, agents, servants, employees, officers, directors, shareholders, consultants, attorneys and representatives, past and present, pending in any court or before any administrative agency or body (except Subject Claims being made in the Pending Litigation, which shall be governed by the provisions of Article IV of this Agreement). In such capacity and to the extent Tex-La can and not be in violation of Section 210 of the Energy Reorganization Act, 42 USC Section 5851 (1983) (Tex-La hereby representing and warranting that it knows of no violation, actual or alleged, of Section 210 of the Energy Reorganization Act, 42 USC Section 5851 (1983) which has not heretofore been disclosed to TU Electric in writing), Tex-La agrees and covenants that Tex-La for itself and on behalf of any person or entity, private or governmental, claiming by, through or under Tex-La, including without limitation, to the extent it has the standing and right under law to do so, its Members and customers (including the customers of Tex-La's Members and other wholesale customers) and its or their respective insurers, agents, servants, employees, officers, directors, consultants, attorneys and representatives, shall not prosecute, directly or indirectly, any Subject Claims, objections, motions or other actions adverse to TU Electric in connection with applications for granting the requisite licenses and approvals for Comanche Peak pending before the NRC and its Atomic Safety and Licensing Boards (ASLB) and Atomic Safety and Licensing Appeal Boards, including, without limitation, in NRC Dockets Nos. 50-445-OL, 50-446-OL and 50-445-CPA, in the Application of Citizens for Fair Utility Regulation

(CFUR) for intervention and for resumption of ABLB hearings, the ongoing antitrust review relative to the licensing of Comanche Peak, and any and all appeals from rulings and orders of the NRC related to, or growing out of, said Dockets or proceedings which are pending before any court. Within three (3) Business Days after the Closing, Tex-La shall cause the dismissal, with prejudice to the refiling of same in any forum and in any form whatsoever, of all of its Subject Claims against TU Electric, TUC and their subsidiaries and affiliates in the Pending Litigation, and shall withdraw all Subject Claims, if any, adverse to TU Electric in connection with the granting of the requisite licenses and approvals for Comanche Peak pending in the NRC Dockets Nos. 50-445-OL, 50-446-OL and 50-445-CPA and any and all proceedings in any manner related to, or arising out of, said NRC licensing proceedings.

Tex-La agrees and covenants, from and after the Closing, to fully cooperate with TU Electric and provide all reasonably requested assistance, including providing the legal assistance of its attorneys (including Heron, Burchette, Ruckert & Rothwell and Hughes & Luce), in a timely manner in connection with any legal proceedings (excluding the Pending Litigation) involving Comanche Peak, including the licensing of Comanche Peak by the NRC, including without limitation the ongoing antitrust review in connection therewith, and all proceedings involving Comanche Peak before the PUC to the extent of not opposing, or assisting any third party in opposing, the position being advocated by TU Electric. Except as specifically provided otherwise in this Agreement, TU Electric shall promptly reimburse Tex-La for any and all reasonable out-of-pocket expenses and any and all reasonable outside professional fees, including, without limitation, attorneys fees, incurred by Tex-La in providing such cooperation.

9.8 TU Electric Actions and Litigation Costs. Within three (3) Business Days after the Closing, TU Electric shall cause the dismissal, with prejudice to the refiling of same

in any forum and in any form whatsoever, of all of its Subject Claims against Tex-La in the Pending Litigation. All costs and expenses related to or incurred in connection with the Pending Litigation shall be borne and paid by the party by whom incurred or to which they are related.

9.9 Termination of Joint Ownership Agreement and Other Agreements. Except as otherwise provided in Section 9.5 hereof with respect to TU Electric's assumption of Tex-La's obligations under the Joint Ownership Agreement, Tex-La and TU Electric hereby agree that, upon the Closing, the Joint Ownership Agreement, as between Tex-La and TU Electric, shall be deemed terminated and of no further force and effect as between them, it being understood that under the circumstances described in Article II, Section 3 of the Mortgage and under the heading "Rescission and Termination" in the Guaranty, the Joint Ownership Agreement may be reinstated. Further, Tex-La and TU Electric agree that, upon the Closing, the Entitlement Assignment Contract between Texas Power & Light Company and Tex-La executed on December 9, 1980 and amended on February 12, 1982 and amended again on May 12, 1982, and the Power Supply Agreement between Texas Power & Light Company and Tex-La executed on December 9, 1980 and amended on February 12, 1982, and the Transmission Agreement between Tex-La and Dallas Power & Light Company, Texas Electric Service Company and Texas Power & Light Company executed on December 9, 1980 and amended on February 12, 1982, and the Distribution Service Agreement between Tex-La and Texas Power & Light Company executed on December 9, 1980 and amended on February 12, 1982, and the letter of intent dated May 6, 1980, between Tex-La and Texas Power & Light Company shall all be deemed terminated and of no further force and effect, except that if the Joint Ownership Agreement is reinstated under the circumstances described in the first sentence hereof, all of the foregoing agreements shall likewise be reinstated and

substituted for the Amended and Restated Power Supply Agreement, Amended and Restated Transmission Agreement and Amended and Restated Distribution Service Agreement referenced in Section 5.3(e) hereof and said amended and restated agreements shall be deemed terminated and of no further force and effect.

ARTICLE X
TERMINATION OF AGREEMENT

10.1 Termination of Agreement by TU Electric. In the event of the failure to satisfy any of the conditions specified in Section 3.2 hereof or Section 5.3 hereof, TU Electric may terminate this Agreement and Tex-La agrees to promptly refund and pay to TU Electric the Signing Payment, plus in addition thereto an incremental amount calculated from the date of receipt of the Signing Payment by Tex-La at the rate of 9.03% per annum and also in addition thereto the payments due pursuant to Section 1.8(c)(iii) hereof. Otherwise, the parties shall close and consummate the transactions provided for herein upon the terms set forth herein. Tex-La agrees that it shall have no right to withhold payment of any amounts it agrees to pay herein in respect to or on the basis of its alleged claims in the Pending Litigation. In the event of such termination, the rights of the parties with respect to Comanche Peak shall be governed by the Joint Ownership Agreement, the other Agreements referred to in the last sentence of Section 9.9 hereof, and the applicable law as determined and applied in the Pending Litigation or the New Lawsuit.

10.2 Termination of Agreement by Tex-La. In the event of the failure to satisfy any of the conditions specified in Section 5.1 hereof or Section 5.3 hereof, Tex-La may terminate this Agreement and Tex-La will immediately refund and pay to TU Electric the Signing Payment plus in addition thereto an incremental amount calculated from the date of receipt of the Signing Payment by Tex-La at the rate of 9.03% per annum and also in

addition thereto the payments due pursuant to Section 1.6(c)(iii) hereof. Otherwise, the parties shall close and consummate the transactions provided for herein upon the terms set forth herein. Tex-La agrees that it shall have no right to withhold payment of any amounts it agrees to pay herein in respect to or on the basis of its alleged claims in the Pending Litigation. In the event of such termination, the rights of the parties with respect to Comanche Peak shall be governed by the Joint Ownership Agreement, the other Agreements referred to in the last sentence of Section 9.9 hereof, and the applicable law as determined and applied in the Pending Litigation or the New Lawsuit.

10.3 Automatic Termination. Unless either the Closing has occurred or there is a written agreement signed by TU Electric and Tex-La to extend the date set out in this paragraph, this Agreement shall automatically terminate at 5:00 p.m., Dallas, Texas time, on February 1, 1990, without any need for the giving of notice or any other action by either TU Electric or Tex-La. In the event such termination occurs, Tex-La will immediately refund and pay to TU Electric the Signing Payment, plus in addition thereto an incremental amount calculated from the date of receipt of the Signing Payment by Tex-La at the rate of 9.03% per annum and also in addition thereto the payments due pursuant to Section 1.6(c)(iii) hereof. In the event of such termination, the rights of the parties with respect to Comanche Peak shall be governed by the Joint Ownership Agreement, the other Agreements referred to in the last sentence of Section 9.9 hereof, and the applicable law as determined and applied in the Pending Litigation or the New Lawsuit.

10.4 Waiver of Conditions. If any of the conditions specified in Section 5.1 have not been satisfied, Tex-La, in addition to any other rights which may be available to it, shall have the right to proceed with the transaction contemplated hereby; and, if any of the conditions specified in Section 5.2 have not been satisfied, TU Electric, in addition to

any other rights which may be available to it, shall have the right to proceed with the transaction contemplated hereby.

10.5 Cancellation of Comanche Peak. In the event that, after the date of this Agreement but before the Closing, TU Electric ceases the construction or announces the cancellation of either or both units of Comanche Peak, or the proceedings at the NRC for the licensing of either such unit are for any reason terminated, the parties nevertheless shall proceed with the transaction contemplated hereby. In such event, to the extent that NRC approval of the transaction provided for herein no longer is legally required, the transaction shall proceed without fulfillment of the conditions set forth in Section 5.3(c).

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 Bulk Sales Law Waiver. To the extent it may lawfully do so, TU Electric hereby waives compliance by Tex-La with the bulk sales law of any jurisdiction, if applicable, with respect to the transactions contemplated hereby, and Tex-La agrees to hold TU Electric harmless from and against any liability, loss, cost or expense, including reasonable attorneys' fees, which TU Electric may sustain by reason of such noncompliance. TU Electric agrees to give Tex-La prompt notice of the assertion of any claim resulting from such noncompliance.

11.2 Further Assurance. Tex-La agrees that, after the Closing, it will from time to time, upon the reasonable request of TU Electric, execute, acknowledge and deliver in proper form any instrument of conveyance or further assurance necessary for perfecting in TU Electric or its successors and assigns, as the case may be, the title to the Purchased Assets as provided for herein or for carrying out the purpose and intent of this Agreement.

11.3 Prepayment of Tex-La Comanche Peak Debt. Nothing in this Agreement shall in any way limit the right of Tex-La to prepay and/or refinance the Tex-La Comanche Peak Debt; and in the event any such refinance is consummated at a lower rate of debt service which refinance has been committed for within one (1) year from the Closing Date, TU Electric may elect by written notice to Tex-La to reduce the payments under the Assumption Agreement by an amount equal to 50% of the difference between the existing Tex-La and new Tex-La rates upon payment to Tex-La of 50% of all reasonable expenses incurred by Tex-La in connection with such refinancing.

11.4 No Third Party Beneficiaries. The parties hereto acknowledge and agree that this Agreement is entered into for the sole benefit of TU Electric, TUC, Tex-La and Tex-La's Members, their respective successors and assigns (to the extent permitted) and, to the extent specifically and expressly set forth elsewhere in this Agreement, their respective insurers, agents, servants, employees, officers, directors, subsidiaries, affiliates, representatives and customers, and that nothing in this Agreement shall be construed as giving any right, benefit, remedy or claim to any person, firm, corporation or other entity, other than TU Electric, TUC, Tex-La and Tex-La's Members, their respective successors and assigns (to the extent permitted) and, to the extent specifically and expressly set forth elsewhere in this Agreement, their respective insurers, agents, servants, employees, officers, directors, subsidiaries, affiliates, representatives and customers. Without in any way limiting the foregoing provisions, it is expressly understood that nothing in this Agreement shall affect any of the rights, obligations and remedies, if any, among TU Electric and TMPA and Brazos under the Joint Ownership Agreement or otherwise.

11.5 Default. In the event of default in performance hereunder by either Tex-La or TU Electric, the non-defaulting party shall be entitled to all remedies legally available to

it including the remedy of specific performance, the parties hereto agreeing that no adequate remedy at law exists.

11.6 Property and Transfer Taxes.

- (a) Property Taxes. All real and personal property taxes, and other similar taxes, charges, and fees imposed on or with respect to or measured by the Purchased Assets not heretofore paid by Tex-La shall be the responsibility and liability of TU Electric, except for such taxes, charges and fees caused by the action or inaction of Tex-La individually or in combination with any of the Owners other than TU Electric or the Project Manager.
- (b) Transfer Taxes. The payment of any and all real estate transfer, stamp, documentary, deed and recording taxes and fees, and all sales and excise taxes imposed in connection with the Purchased Assets or the sale or transfer of the Purchased Assets shall be the responsibility and liability of TU Electric.

11.7 Expenses. Tex-La and TU Electric shall each pay all expenses incurred by them respectively in connection with this Agreement, including the fees of their respective counsel and accountants, if any, except as may be otherwise provided.

11.8 Governing Law. This Agreement shall be construed, and the provisions hereof shall be enforced, in accordance with the laws of the State of Texas.

11.9 Announcements. All press releases or other announcements by TU Electric or Tex-La prior to or in connection with the execution of this Agreement shall be approved by Tex-La and TU Electric prior to the issuance thereof, which approval shall not be unreasonably withheld.

11.10 Entire Agreement, Amendments. This Agreement, together with the Original Agreement as amended and the other documents delivered pursuant hereto, constitute the entire agreement between Tex-La and TU Electric relating to the subject matter hereof and supersede all other prior agreements, representations and understandings between the parties. No supplement to, or modification or amendment of, this Agreement shall be binding, unless executed in writing by both Tex-La and TU Electric.

11.11 Assigns, etc. This Agreement shall be binding upon and inure to the benefit of Tex-La and its Members, and TU Electric and TUC, and their respective successors and assigns but shall not confer any rights upon any third persons except to the extent expressly provided herein. This Agreement may not be assigned by Tex-La without the written consent of TU Electric or by TU Electric without the written consent of Tex-La.

11.12 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) if served personally on the party to whom notice is to be given at the addresses and to the attention of the persons named as follows, or (b) if sent by telex or nationally recognized overnight delivery service, or (c) by first class mail, postage prepaid, certified and return receipt requested, and properly addressed as follows:

(a) To Tex-La at:

Tex-La Electric Cooperative of Texas, Inc.
P. O. Box 1623
Nacogdoches, Texas 75961

Attention: John H. Butts

For Federal Express:

Tex-La Electric Cooperative of Texas, Inc.
2905 Westward Drive
Nacogdoches, Texas 75961

Attention: John H. Butts

(with copy to)

Heron, Burchette, Ruckert & Rothwell
Suite 700
1025 Thomas Jefferson Street, N.W.
Washington, D.C. 20007

Attention: William H. Burchette

(b) To TU Electric at:

Texas Utilities Electric Company
2001 Bryan Street
Suite 1900
Dallas, Texas 75201

Attention: Erle Nye

(with copy to)

Worsham, Forsythe, Sampels & Wooldridge
2001 Bryan Street
Suite 3200
Dallas, Texas 75201

Attention: Robert A. Wooldridge

11.13 Headings. The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

11.14 Execution and Counterparts. This Agreement may be executed in any number of counterparts, each and all of which shall be deemed for all purposes to be one agreement.

11.15 Interest on Past Due Payments. In the event that Tex-La or TU Electric fails to timely make any payments to the other which become due under this Agreement, the incremental amount due on the past due payment for the period between and including the due date and the date actually paid shall be calculated at the rate of twelve and one-half percent (12-1/2%) per annum.

11.16 Use of Representations or Recitals. Any representations or recitals made by Tex-La and TU Electric in this Agreement are for the purposes of this Agreement only. In the event that this Agreement is terminated or does not timely close at the Closing Date, neither Tex-La nor TU Electric shall use, as evidence or otherwise, any such representations or recitals against the other in any way in the New Lawsuit or any other lawsuit concerning any Subject Claims which have been made in the Pending Litigation.

11.17 Separate Litigation. Any Subject Claims arising out of or under this Agreement shall be prosecuted in a lawsuit separate from the lawsuit in which any Subject Claims which have been made in the Pending Litigation are prosecuted. In the event of any such separate lawsuit between TU Electric and Tex-La concerning this Agreement, neither party shall seek to disqualify the other party's attorneys from representing such party in the lawsuit on the ground that the party's attorneys participated in the negotiating and drafting of this Agreement.

11.18 Construction of Comanche Peak. If TU Electric continues to believe that the completion of Comanche Peak is economically and otherwise feasible, TU Electric covenants that it will use its best efforts to complete, or cause to be completed, the construction of Comanche Peak and placing the same in operation.

11.19 Severability. The parties hereto agree that the various obligations and undertakings specified in this Agreement and in the other agreements or instruments referred to herein are each mutually dependent upon one another and, in the event that any fundamental or essential provision of this Agreement or any of such other agreements or instruments is finally determined to be invalid, illegal or unenforceable by a court or administrative body having jurisdiction, TU Electric and Tex-La hereby agree to conduct good faith negotiations for the purpose of reaching a mutually acceptable written agreement to replace the deleted provision with a provision which will most nearly

accomplish the purpose and intent of the deleted provision. Failing to reach such a mutually acceptable agreement, the parties shall rescind the transactions provided for herein and therein.

11.20 Time of the Essence. Time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth at the outset hereof.

TEXAS UTILITIES ELECTRIC COMPANY

(Corporate Seal)

By: M. S. Greene
M. S. Greene, Vice President

ATTEST:

By: G. A. Engelland
G. A. Engelland, Assistant Secretary

TEX-LA ELECTRIC COOPERATIVE
OF TEXAS, INC.

(Corporate Seal)

By: S. W. Carter
S. W. Carter, Vice President

ATTEST:

By: Richard T. Mills, Jr.
Richard T. Mills, Jr.,
Secretary-Treasurer