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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

HOUSTON LIGHTING AND POWER)
CO., et al (South Texas)
Project, Units 1 and 2))

Docket Nos. 50-498A
50-499A

TEXAS UTILITIES GENERATING)
COMPANY (Coranche Peak Steam)
Electric Station, Units 1)
and 2))

Docket Nos. 50-445A
50-446A

DEPARTMENT OF JUSTICE MOTION FOR EXTENSION OF TIME

Pursuant to 10 C.F.R. §2.711 of the Commission's Rules of Practice, the Department of Justice ("Department") hereby moves for an extension of time, as described below, within which to answer or otherwise respond to Houston Lighting and Power's ("HL&P") SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS FROM HOUSTON LIGHTING & POWER COMPANY TO ANTI-TRUST DIVISION, U.S. DEPT. OF JUSTICE ("Second Interrogatories"). Those Second Interrogatories were served, by hand, on the Department on February 9, 1979. Under the rules, written answers to the interrogatories are presently due on February 23, 1979 and responsive documents must be produced by March 9, 1979.

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HL&P's Second Interrogatories seek the identity of witnesses (including, but not limited to, experts) whom the Department expects to call in these proceedings, a summary of the testimony which each witness is expected to offer and the documents upon which each witness may rely. The Department contends that production of such information and/or documents is premature at this time. Additionally, the Department believes that, at the appropriate time, such information should be exchanged on a mutual and reciprocal basis. This position is fully consistent with this Board's instruction that:

Witness lists, brief summaries of proposed testimony by each witness, and all proposed exhibits, studies and supporting documents shall be exchanged and initialed by counsel promptly as discovery and trial preparation progresses. (Prehearing Conference Order Regarding Issues, Discovery and Consolidation [re: Comanche Peak], December 5, 1978, at 6 and Special Prehearing Conference Order [re: South Texas], July 13, 1978, at 7, emphasis added).

The Department is doing its utmost to complete its discovery as expeditiously as possible. Nonetheless, the Department is still attempting to resolve disagreements with HL&P and other applicants regarding their first formal discovery requests 1/, which requests relate to the basic

1/ On February 6, 1979, the Department served, by mail, oppositions to Texas Utilities Generating Company's ("TUGCO's") and HL&P's motions for protective orders regarding the Department's first set of interrogatories and requests for production of documents. At the same time, the (footnote continued on next page)

facts (and supporting documents) in this case. Until the Department has received, and has had a reasonable opportunity to review, full responses to its first discovery requests, it cannot determine the number and identity of the witnesses it will call, much less what those witnesses will say or upon which documents they will rely.

Moreover, all parties to this proceeding are still engaged in the first phase of discovery. 2/ In addition to needing adequate time to review materials supplied in response to its own requests, the Department needs time to review materials which will be produced in response to the

(footnote con't)

Department served motions to compel fuller responses from TUGCO, HL&P and the City of Austin (with respect to the Department's first discovery request to it). Responses to those motions are presently due February 21, 1979. Counsel for HL&P recently filed a motion asking that its time to respond be extended to March 5, 1979.

2/ For example, the Public Utilities Board of the City of Brownsville ("Brownsville") mailed its initial interrogatories and document request to Central Power & Light Company ("CP&L") on January 3, 1979 (with an amended version submitted on January 5, 1979). CP&L has requested an extension until February 20, 1979 to respond. The staff of the Commission served its initial discovery request on HL&P and TUGCO, by mail, on January 15, 1979. HL&P has been given until February 20, 1979 and TUGCO until March 5, 1979 to respond. Brownsville served its first set of interrogatories and document requests, by mail, on HL&P, TUGCO, South Texas Electric Cooperative, Medina Electric Cooperative, City Public Service Board of San Antonio and the City of Austin on January 31, 1979. Written answers are presently due February 19, 1979 and documents are to be produced by March 7, 1979. Finally, on February 7, 1979 HL&P mailed its first set of interrogatories and document demand to CP&L with written answers due February 26, 1979 and documents to be produced March 12, 1979.

discovery requests of other parties before making decisions regarding the questions being asked by HL&P in its Second Interrogatories.

For these reasons, the Department respectfully requests that its obligation to respond to HL&P's Second Interrogatories be stayed until such time as a date can be set (perhaps at the March 20, 1979 Prehearing Conference) for a mutual exchange among the parties of witness lists, summaries of probable testimony and the like or, in the alternative, that the Department be given an extension of time within which to respond to HL&P's Second Interrogatories until a reasonable period after either: (1) an unfavorable ruling by the Board regarding the Department's motion to compel further answers by HL&P to the Department's first set of interrogatories, or (2) production by HL&P of fuller answers in response to a favorable ruling by the Board with regard to the Department's motion to compel.

Respectfully submitted,

Judith L. Harris

Judith L. Harris
Ronald H. Clark
Federick H. Parmenter
Attorneys
Energy Section
Antitrust Division
U.S. Department of
Justice
Washington, D.C. 20530

February 22, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing DEPARTMENT OF JUSTICE MOTION FOR EXTENSION OF TIME has been made on the following parties listed hereto this 22th day of February, 1979, by depositing copies thereof in the United States mail, first class, postage prepaid.

Marshall E. Miller, Esquire Chairman Atomic Safety & Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D. C. 20555	Atomic Safety and Licensing Advisory Board Panel U.S. Nuclear Regulatory Commission Washington, D. C. 20555
Michael L. Glaser, Esquire 1150 17th Street, N.W. Washington, D. C. 20036	Richard S. Salzman, Esquire U.S. Nuclear Regulatory Commission Washington, D. C. 20555
Sheldon J. Wolfe, Esquire Atomic Safety & Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D. C. 20555	Jerome E. Sharfman, Esquire U.S. Nuclear Regulatory Commission Washington, D. C. 20555
Samuel J. Chilk, Secretary Office of the Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, D. C. 20555	Chase R. Stephens, Secretary Docketing and Service Branch U.S. Nuclear Regulatory Commission Washington, D. C. 20555
	Jerome Saltzman Chief, Antitrust and Indemnity Group U.S. Nuclear Regulatory Commission Washington, D. C. 20555

Roff Hardy
Chairman and Chief Executive
Officer
Central Power and Light
Company
P. O. Box 2121
Corpus Christi, Texas 78403

G. K. Spruce, General Manager
City Public Service Board
P.O. Box 1771
San Antonio, Texas 78203

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

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

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

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

Joseph Gallo, Esquire
Richard D. Cudany, Esquire
Robert H. Loeffler, Esquire
Isham, Lincoln & Beale
Suite 701
1050 17th Street, N.W.
Washington, D. C. 20036

Michael I. Miller, Esquire
Richard E. Powell, Esquire
David M. Stahl, Esquire
Thomas G. Ryan, Esquire
Isham, Lincoln & Beale
One First National Plaza
Chicago, Illinois 60603

Roy P. Lessy, Esquire
Michael Blume, Esquire
U.S. Nuclear Regulatory
Commission
Washington, D. C. 20555

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

Robert C. McDiarmid, Esquire
Robert A. Jablen, Esquire
Spiegel and McDiarmid
2600 Virginia Avenue, N.W.
Washington, D. C. 20036

Dan H. Davidson
City Manager
City of Austin
P. O. Box 1088
Austin, Texas 78767

Don K. Butler, Esquire
1225 Southwest Tower
Austin, Texas 78701

Joseph Irion Worsham, Esquire
Merlyn D. Sarpels, Esquire
Spencer C. Polyea, Esquire
Worsham, Forsythe & Sarpels
2001 Bryan Tower, Suite 2500
Dallas, Texas 75201

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

Douglas F. John, Esquire
Akin, Gump, Hazer & Feld
1100 Madison Office Building
1155 15th Street, N.W.
Washington, D. C. 20024

Morgan Hunter, Esquire
McGinnis, Lochridge & Kilgore
5th Floor, Texas State Bank
Building
900 Congress Avenue
Austin, Texas 78701

Jay M. Galt, Esquire
Looney, Nichols, Johnson
& Hayes
219 Couch Drive
Oklahoma City, Oklahoma 73101

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

John W. Davidson, Esquire
Sawtelle, Goode, Davidson
& Tiello
1100 San Antonio Savings
Building
San Antonio, Texas 78205

W. S. Robson
General Manager
South Texas Electric
Cooperative, Inc.
Route 6, Building 102
Victoria Regional Airport
Victoria, Texas 77901

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

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

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

Kevin B. Pratt, Esquire
Assistant Attorney General
P.O. Box 12548
Capitol Station
Austin, Texas 78717

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

Judith L. Harris
Judith L. Harris, Attorney
Energy Section
Antitrust Division
Department of Justice

END

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