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10. 50-445A

September 2, 1986

- a. Anticipated excess or shortage in generating capacity resources not expected at the construction permit stage. Reasons for the excess or shortage along with data on how the excess will be allocated, distributed, or otherwise utilized or how the shortage will be obtained.

Brazos is now facing a substantial shortage of generating capacity, both for present demand and for future needs. Brazos currently has 716 megawatts (MW) of generating capacity. Brazos' projected load for 1986 is 752 MW. At present, Brazos intends to make up its shortfall in generating capacity resources with purchases from the Texas Municipal Power Pool ("TMPP"). The total TMPP system capacity is 2066 MW, as compared with a projected 1986 load of 1560 MW. These resources will be sufficient to meet TMPP's load plus reserve requirements only until 1989, if the Comanche Peak Steam Electric Station ("CPSES") does not come on line. Brazos is now looking into gas turbine generation, purchases from cogenerators, and load management to try to alleviate the imminent supply problem.

Brazos will discuss two sets of developments concerning power supply: its problems as co-owner of CPSES, and issues relating to the availability of federal hydroelectric resources.

Comanche Peak Steam Electric Station

The most serious part of Brazos' power supply problem is due to TUEC's failure to complete the Comanche Peak Steam Electric Station ("CPSES") within any reasonable range of the

time and cost estimates upon which Brazos relied in its decision to enter into the Joint Ownership Agreement. Brazos has not received any power from the CPSES, and there is no indication when or if it will.

The supply squeeze now faced by Brazos has several dimensions: failure to receive a reliable power supply from CPSES, increased costs for its share of CPSES, and loss of opportunities (due to capital absorption and uncertainty) to pursue alternatives. The foreclosure of opportunities has been continuous -- throughout the period from 1979 to date, TUEC has led Brazos to believe that CPSES would be available as a power source within less than two years: for example, in 1979, TUEC promised 1981 availability; in 1985, TUEC promised 1986 or 1987 availability. Now, however, TUEC cannot or will not state when, if ever, CPSES will be on-line.

The delay, massive cost overruns, and uncertainty have also frustrated the purpose of the antitrust conditions in the CPSES construction permits. Those conditions were intended to alleviate anticompetitive conditions within ERCOT-Texas by; inter alia, providing Brazos and others with a source of low-cost power. As the U.S. Department of Justice found in 1974, participation in CPSES (and certain other commitments by TUEC) "should provide competitors of [TUEC] with competitive, alternative power supply sources and substantially eliminate the grounds on which complaints made to the Department by the smaller system were based." (Exhibit A1, January 17, 1974 letter from

the Justice Department to the Atomic Energy Commission). CPSES is not now a source of power supply; even if it ever operates, at its present and projected costs CPSES is not a competitive source of power supply. The price paid by Brazos for participation in CPSES, both in dollars and in lost opportunities, has been and will be dear.

Brazos believes that, beginning in 1977, and continuing to 1986, TUEC has withheld information about essential aspects of design, construction, and licensing of CPSES. Such information was material and essential to Brazos' decision to participate in CPSES and to obtain financing. As a result of its misplaced reliance on its ownership in Comanche Peak as a source of low cost power, Brazos is facing an imminent supply squeeze which will place it at a competitive disadvantage. The competitive disadvantage resulting from the impact of the costs and uncertainties of Comanche Peak is reflected in Brazos' loss of potential member/customers, discussed in the response to item (h), infra.

Brazos believes that TUEC is at fault for the cost overruns and delays which have prevented the timely and economical construction and operation of CPSES. It cannot seriously be contended that the problems in CPSES construction have been in any way attributable to this Commission or to the evolution of safety standards. The results of TUEC's mismanagement include design problems, construction problems, training and other personnel problems, and quality control

problems, discussed infra. Brazos further believes that TUEC has misled its co-owners, including Brazos, about TUEC's mismanagement of both the construction of CPSES and the licensing process before the NRC. Brazos, like the other minority co-owners of CPSES, is seeking rescissory and monetary relief in litigation against TUEC in Texas state district courts.

Brazos has requested that TUEC purchase, at Brazos's book cost, its 3.8 percent share of CPSES. Brazos is now pursuing this relief in court. Brazos' present participation in CPSES leaves it at a severe competitive disadvantage, with its options limited by, inter alia, its massive investment in CPSES and limits on access to alternative economical sources of power and energy.

Brazos' Original Expectations

Brazos entered into the Joint Ownership Agreement for participation in the CPSES for the express purpose of securing a safe and economical power supply available beginning in the early 1980's. Brazos agreed to purchase from Dallas Power & Light Company, now a division of TUEC, a 3.8 percent interest in two nuclear units which were to be in commercial operation on or about January, 1981 (Unit #1) and January, 1983 (Unit #2), relying on TUEC's representations regarding cost and availability. Each unit was nominally rated at 1150 MW, so that Brazos' share was to be 87.4 MW, at a total cost (as estimated by TUEC in 1979) to Brazos of approximately \$64.6 million or

\$739/kW, including interest. In 1979, in applying for REA financing, Brazos estimated its approximate maximum cost for Comanche Peak, including nuclear fuel, interest, and a contingency, to be \$96.1 million, or approximately \$1100/kW. Thus, Brazos expected (and needed) a low cost source of power.

Present Status of CPSES

TUEC has failed to complete CPSES at a reasonable cost or within a reasonable time. In November of 1985, TUEC estimated that the total cost of CPSES would reach \$5.46 billion, assuming favorable licensing rulings. This was in excess of the estimate given Brazos at the time Brazos entered into the Joint Ownership Agreement by \$3.76 billion, an increase of 221 percent. In April, 1986, based on interim results of its own investigations, TUEC formally retracted its \$5.46 billion estimate, and took the position that it could not predict the magnitude of possible future cost overruns or what the final total cost might be. In July, TUEC announced that it would be unable to place CPSES Unit 1 in commercial operation in time to meet TUEC's summer 1988 peak.

Cost to Brazos

Brazos has been forced to pay unreasonable, unnecessary and excessive costs of construction (including excessive and unnecessary interest and other carrying costs) resulting directly from the conduct of TUEC.

Under the Joint Ownership Agreement among the co-owners of CPSES, TUEC is granted sole responsibility for construction, licensing, and operation of CPSES. The problems for which it is responsible are legion, and have resulted not only in fines, but in substantial delays and increased costs for CPSES, and injury thereby to Brazos. 1/

1/ The following findings exemplify, but by no means exhaust, Brazos' concerns with TUEC's mismanagement. Civil fines totaling \$450,000 have been proposed by NRC staff to date regarding TUEC's conduct; TUEC has paid \$280,000 of these fines, all relating to plant Quality Assurance and Quality Control.

On December 28, 1983, the Atomic Safety and Licensing Board conducting hearings on TUEC's application for operating licenses for the CPSES units ruled:

The record before us casts doubt on the design quality of the Comanche Peak Steam Electric Station (Comanche Peak), both because the Texas Utilities Generating Company, et al. (applicant) has not demonstrated the existence of a system that promptly corrects design deficiencies and because our record is devoid of a satisfactory explanation for several design questions raised by the Citizens Association for Sound Energy (CASE). We suggest that there is a need for an independent design review and we require applicant to file a plan that may help to resolve our doubts.

Texas Utilities Generating Co. (Comanche Peak Steam Electric Station, Units 1 and 2), LBP-83-81, 18 N.R.C. 1410, 1412 (1983), modified, LBP-84-10, 19 N.R.C. 509 (1984), modified, LBP-84-25, 19 N.R.C. 1589 (1984). The ASLB noted in its decision that TUEC's failure to implement a program for timely assurance of design quality would necessitate a licensing review that would likely interfere with TUEC's meeting its construction targets. Id. at 1453.

The ASLB's findings on Quality Assurance at the design stage were mirrored in NRC Staff's findings concerning TUEC's construction Quality Control and Quality Assurance program. On January 8, 1985, Darrell G. Eisenhut, Director of Licensing of
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the NRC Office of Nuclear Reactor Regulation, forwarded to TUEC the findings of the Comanche Peak Technical Review Team ("TRT") resulting from its investigation of allegations of deficiencies in QA/QC at CPSES (Exhibit A2). Respecting Quality Assurance, the TRT "found that although the TUEC QA program documentation met NRC requirements, the weakness of its implementation in several areas demonstrate [sic] that TUEC lacked the commitment to aggressively implement an effective QA/QC program in several areas."

The design and construction reviews that were triggered in the wake of these and other NRC reports continue to reveal fundamental problems. TUEC reported the following to the U.S. Securities and Exchange Commission on Form 8-K, filed on July 14, 1986 (Exhibit A3):

The Registrant has previously reported [by Form 8-K filed on April 18, 1986] that modifications would be required on approximately thirty percent of the pipe supports on [CPSES] Unit 1 and that containment electrical penetrations would be replaced. It now appears that more corrective actions will be required than was anticipated at that time. In the course of the design reviews being performed at Comanche Peak, additional problems have recently been discovered in several areas of the design of the plant. . . . These developments will further extend the time needed to perform corrective action and to obtain an operating license from the NRC and will increase the cost for this generating facility. . . . The reanalysis, reinspection and corrective action and the hearing process before the ASLB cannot be completed in time for commercial operation of Unit 1 for the Registrant's peak load in the summer of 1988

TUEC's management of the licensing process itself has been no more adept than its management of design and construction. Its pleadings filed with the ASLB have cost it considerable credibility. In its design order of December, 1983, supra, the ASLB rejected TUEC's effort to shift the blame for its licensing difficulties:

In assessing the next step in this proceeding, we urge applicant to abandon its belief that its difficulties with this board

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Brazos now believes that the ultimate cost of a 3.8 percent share of CPSES could reach or exceed \$300,000,000, approximately five times the cost estimate made by TUEC on which Brazos relied in entering into the Joint Ownership Agreement. The cost of CPSES would then exceed \$3400/kW, as compared with \$739/kW under TUEC's 1979 estimate. The significance of the change is that this source of baseload power has become extremely expensive and extremely uncertain.

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are related to the lack of continuity of Board members. . . . We have studied the record in this case and believe that applicant must realize that its principal difficulty has been its inability to submit rigorous, logical answers to opposing proof.

19 N.R.C. at 1453 (footnote omitted). In a subsequent order, the ASLB recited several instances of misleading testimony by TUEC witnesses and "changes in position that are hard to understand," and invited TUEC et al. "to review their own testimony and to disclose all their errors in the course of this proceeding (or the related docket) in a single filing, together with explanations." Texas Utilities Electric Company, LBP-84-56, 20 N.R.C. 1696 (1984). TUEC's response to this order did not restore the ASLB's confidence; TUEC sought to justify statements that the Board deemed misleading, and drew a warning from the Board that its actions "will be delayed or will be unfavorable" unless TUEC's filings become forthright and careful. Texas Utilities Electric Company, LBP-85-47, 22 N.R.C. 835 (1985).

It may well develop that one of TUEC's most serious mismanagements of the licensing proceeding occurred not through a filing but through the absence of one. TUEC allowed the construction permit for CPSES Unit 1 to expire without seeking a timely extension, with the result that construction at the site was interrupted. Although the permit has been provisionally extended, the extension is being contested, and in any event substantial fines may result from TUEC's unprecedented oversight. See Texas Utilities Electric Company, 23 N.R.C. 113 (1986), petition for review filed sub nom. Citizens Association for Sound Energy v. United States Nuclear Regulatory Commission, No. 86-1169 (D.C. Cir. Mar. 13, 1986).

Lost Opportunities

Brazos has been and will be forced to enter into and to use short term alternative power supply arrangements to compensate for TUEC's failure to place CPSES on line within any reasonable schedule. The uncertainty regarding Brazos' financing commitment to CPSES effectively forecloses it from pursuing alternative long term power supply arrangements, such as those made possible by recent dramatic changes in fossil fuel markets.

Problems with Financing

Brazos has been prevented from obtaining financing necessary to pay amounts requested by TUEC for costs of construction as a direct result of TUEC's failure to inform Brazos at all or in a timely manner of the sources, nature, extent, and implications of the problems of CPSES. Brazos has not been able to make any construction payments to TUEC since the exhaustion of its REA-guaranteed loan funds on May 21, 1985. TUEC contends, over Brazos' objections, that Brazos's nonpayments have reduced its ownership and other entitlements in CPSES. The effects of Brazos' problems with financing are discussed further in the response to item (d).

Texas Litigation

On May 29, 1986, TUEC brought suit against Brazos in the District Court of Dallas County, Texas. TUEC caused said suit to be filed by counsel presently representing all owners of CPSES, including Brazos, in the licensing proceedings presently pending

before the Nuclear Regulatory Commission, in the construction permit extension proceedings presently pending before the Nuclear Regulatory Commission, and in the appeal of the Nuclear Regulatory Commission's nunc pro tunc extension of the Unit #1 construction permit presently pending before the U.S. Court of Appeals for the D.C. Circuit. Brazos, like its co-minority owners, has counterclaimed in that suit, and has brought suit against TUEC and its affiliates in the District Court of Travis County, Texas. 2/

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Federal Hydroelectric Resources

There have been changes in the availability of certain federal hydroelectric power resources that adversely affect Brazos' access to economical energy and capacity. The changes are of some complexity, and have produced litigation which Brazos has initiated and to which several of the Applicants, including TUEC, are parties. A contract, which Brazos believes to be illegal, between TUEC and the Southwestern Power Administration has contributed to making the situation worse for Brazos. Accordingly, Brazos will first describe prior arrangements, and then discuss changes in circumstances.

2/ Brazos has protested TUEC's use of Applicants' counsel in the Texas litigation, and made same an element of its complaint and counterclaim. To date, Applicants' counsel has not withdrawn from the Texas litigation.

Prior Arrangements

Since 1953, Brazos has purchased power generated at the Whitney Dam, operated by the Corps of Engineers, and marketed by Southwestern Power Administration ("SWPA"). Beginning in 1971, Brazos' contract regarding Whitney Dam has been structured so that SWPA is obligated to provide Brazos with 30 MW of capacity and a specified amount of energy annually even if there is insufficient water flowing through the Whitney Dam to generate such energy. If the guaranteed power is unavailable from Whitney, SWPA must supply it from other sources. Such power and energy is termed "firm" power and energy because it is intended to have assured availability to meet all or a portion of the electricity requirements of the customer. The Brazos contract is a firm peaking contract: the power is available 1200 hours per year.

The Brazos contract also provides for the sale to Brazos of energy which SWPA determines is available in addition to the firm energy guaranteed under the contract. The availability of such energy is dependent on there being water running through Whitney Dam in addition to that required to generate the guaranteed power. This energy may be available at some times of the year, but not others. Under the Brazos contract, this energy is termed "excess energy." Until February, 1984, SWPA consistently provided Brazos with all the excess energy produced by Whitney Dam. Brazos' contract expires in 1988.

SWPA also allocated power previously from the South Unit of the Denison Dam to the portion of Texas which historically has not been connected electrically with the electric systems of the rest of the country (the "non-interconnected portions of Texas"). SWPA provided 35 MW of capacity with specified energy, plus excess energy from that unit, to Texas Power & Light Company (now a division of TUEC). 3/ As a condition of receipt of that power and energy, TP&L/TUEC provided and transmitted to Tex-La Electric Cooperative ("Tex-La") 15 MW of power and energy in a form most usable to Tex-La. The TP&L-SWPA contract contains a clause (Art. 40), set forth infra, which purports to give TP&L/TUEC first option to purchase all additional SWPA power and energy from the Denison Dam allocated into Texas.

Changed Circumstances

On March 8, 1983, SWPA asked Brazos to give up the firm peaking power allocation that it had received for many years, and to enter into a substitute contract under which Brazos would give up its right to additional energy from SWPA when insufficient water flowed through Whitney Dam to produce the 30 MW of capacity for a specific number of hours (1200) each year. SWPA stated that if Brazos did not agree, a substantial part of the excess Whitney energy previously sold to Brazos could be sold to two members of Tex-La -- Tex-La Electric Cooperative of Texas, Inc. ("Tex-La of Texas") and Rayburn Country Electric Cooperative,

3/ That contract is enclosed herewith as Exhibit A4.

Inc. ("Rayburn Country") -- or to TUEC, and that Brazos' entire Whitney allocation might not be renewed in 1988. From this request and during subsequent meetings, Brazos learned that TUEC, not a preference customer, would receive power benefits from the North Denison Unit, in return for selling other power to Tex-La of Texas and Rayburn Country. One purpose of the changed arrangements was to benefit TUEC by relieving TUEC of any diminution of the value of Denison Dam power as a result of the need for Denison Dam power to "firm" Whitney Dam power (i.e., to provide Brazos with substitute power when the Whitney Dam reservoir is low or when its generators need repairs).

On March 23, 1983, Brazos requested additional power from SWPA. In letters to SWPA and in meetings with SWPA officials, Brazos refused to relinquish its contractual right to firm peaking power and energy from Whitney. 4/ Brazos requested, among other things, a share of electric power and energy from the Denison Units. However, as part of a compromise, Brazos offered to relinquish its contractual rights to firm peaking power and energy under certain circumstances, such as if it were to receive an allocation of Denison power or if it were to provide firming for Denison power. Brazos offered to enter into arrangements to provide firming or related economic benefits to Tex-La, Rayburn Country, or any other current preference customer which is a beneficiary of Denison power. Brazos offered to enter into

4/ The relevant correspondence is enclosed herewith as Exhibits A5-A9.

interim firming arrangements, which Brazos believed provided at least as many benefits to Tex-La and Rayburn Country as TUEC's interim offer. Brazos' interim offers were rejected, in part because SWPA stated that Clause 40 of the TP&L-SWPA contract required SWPA to deal with TUEC.

SWPA refused to allocate any Denison power to Brazos. On February 29, 1984, SWPA entered into contracts for the sale of power and energy from both the North and South Denison Units to Tex-La of Texas, Rayburn Country and TUEC, under which substantial benefits will go to TUEC. The new contracts facially restructure the South Denison Unit arrangements so that those arrangements appear as a 35 MW allocation to Tex-La, a preference entity, rather than an allocation of 35 MW to TUEC and a related sale of 15 MW to Tex-La, as stated in the prior contracts. Further, SWPA has now allocated by contract to Tex-La of Texas and Rayburn Country 70% of the excess energy from Whitney Dam.

The Role of the TUEC-SWPA Contractual Arrangements

The effect of Article 40 of the older SWPA-TP&L contract on the 1984 SWPA contracts is significant. The clause provides:

Before the Government sells for use in the State of Texas, to any party other than the Government, any of the power and energy generated at the Denison Dam power plant, other than that delivered to the Company under this Agreement, the Company shall have the option of purchasing such power and energy under similar terms and conditions as provided for herein

This clause apparently means that if SWPA were to sell North Denison power anywhere in Texas, including in the non-interconnected part of Texas, TUEC has a right of first refusal. 5/ Brazos believes that the existence of this clause and its possible enforcement gave TUEC considerable bargaining power concerning any new arrangements made by SWPA.

In its February, 1984 letters to Brazos, SWPA described Article 40 as a binding obligation that gave TP&L "first option of purchasing power generated at Denison Dam and delivered into Texas" and that had to be considered in terms of the potential arrangements available to Brazos for Denison power. Exhibit A8, A9. SWPA emphasized the need to "honor ... our TP&L contract." SWPA described Article 40 as "clouding" the availability of excess Denison energy. In rejecting Brazos' application and approving the 1984 arrangements, SWPA considered and gave substantial, substantive effect to Article 40. This inference is not altered by SWPA's statement in a February 22, 1984 letter to Brazos (Exhibit A9) that TUEC indicated to Tex-La its willingness to forego additional scheduling benefits or in "waivers" of Article 40 by TUEC. The 1984 contract (Exhibit A10) reflects no general waiver of rights accruing to TUEC under Article 40. Rather, it contains a willingness of TP&L to forego Article 40 benefits on the condition that and so long as TP&L receives the benefits provided in the scheduling agent agreement. Thus, while

5/ Brazos is contesting the legality of Article 40 under the Flood Control Act, 16 U.S.C. § 825s.

TUEC did not exercise its right of first refusal, it waived rights "only for that power and energy generating [sic] during the term of this Agreement, provided that the Cooperatives [i.e., Tex-La of Texas and Rayburn Country] receive and pay for all such power and energy generated at the North Unit during the term pursuant to the Power Sales Contract." According to the Scheduling Agent Agreement (Exhibit A10), "Contract No. Ispa-177 ... remain[s] in full force and effect throughout the term of this Agreement."

The contract between TP&L/TUEC and SWPA contains several other provisions which concern Brazos. For example, paragraph 32 prohibits SWPA from making any interconnection or operating its system "in a manner that will cause or allow power and energy to flow from the Company's system to points outside the State of Texas ..."

Regarding paragraph 32, Brazos complained to SWPA that Brazos is limited in its access to alternative power sources because of SWPA's deference to the electrical separation between ERCOT and other regions. If Denison power flowed interstate, alternative sources could have become available for firming. SWPA did not respond to this point.

In federal court, Brazos has challenged SWPA's actions on various procedural grounds and has also raised substantive issues arising under the Flood Control Act and from SWPA's failure to consider the antitrust issues raised by Brazos. Brazos Electric Power Cooperative, Inc. v. Southwestern Power

Administration, et al., W-84-CA-101. The District Court denied all relief to Brazos and Brazos has appealed to the Fifth Circuit, No. 86-1059.

If Brazos does not obtain relief, the short term effect is loss of Whitney excess energy, and the long-term effect may be loss of opportunity to purchase other valuable federal hydroelectric power.

Brazos has also applied to SWPA for a 7.5 MW allocation of power from facilities outside Texas. Brazos' ability to utilize that power is restricted by the lack of interstate AC transmission for the power. See Exhibit A11.

- b. New power pools or coordinating groups or changes in structure, activities, policies, practices, or membership of power pools or coordinating groups in which the licensee was, is, or will be a participant.

Brazos is a member of the Texas Municipal Power Pool, composed of Brazos and the Cities of Bryan, Denton, Garland and Greenville. The Pool was initially formed in 1963, with the City of Denton joining in 1968. There have been no significant changes in the Pool's structure, activities, policies, practices or membership since September 15, 1980. A copy of an updated Power Pool and Interchange Agreement, dated March 31, 1986, is attached as Exhibit B1.

Prior to September 4, 1981, Brazos, through its membership in the Texas Municipal Power Pool, was a member of the Texas Interconnected System ("TIS") which was a coordinating group of generating electric utilities in intrastate operations in Texas. At the same time, Brazos was a member of the Electric Reliability Council of Texas ("ERCOT"), a coordinating group composed of all electric utilities operating intrastate in Texas that wished membership.

On September 4, 1981, ERCOT assumed the functions of TIS. A copy of the ERCOT agreement, as amended on September 4, 1981, and on September 27, 1985, is attached as Exhibit B2.

On October 14, 1983, Central and South West Services, Inc., filed a new operating agreement among it and other wholly-owned subsidiaries of Central and South West Corporation ("CSW"),

including Central Power & Light Company and West Texas Utilities Company. FERC Docket No. ER84-31. Non-CSW utilities in ERCOT, including Brazos, are not parties to the agreement. Brazos believes that the agreement will affect operations and practices within ERCOT, including the interconnections agreed to in the settlement in FERC Dockets EL79-8 et al. referenced in paragraph 3.D.(2)(o) of the CPSES license conditions. Brazos was not a party to the original proceedings in Docket No. EL79-8, but has sought intervention in the Petition to Modify the FERC Orders in that docket, noticed May 6, 1986. (The latter petition seeks to replace the south interconnection required in the settlement filed in and approved by FERC in Docket No. EL79-8 with a new, east asynchronous direct current interconnection between TUEC and CSW subsidiary Southwestern Electric Power Company. See also the response to item (c) and exhibits enclosed therewith.)

- c. Changes in transmission with respect to
 - (1) the nuclear plant,
 - (2) interconnections, or (3) connections to wholesale customers.

Under the terms of a July 25, 1979, Transmission Agreement with TUEC which regards transmission for nuclear generation, Brazos is to acquire an undivided ownership interest in TUEC's Comanche Peak-De Cordova transmission line. The interest is based on Brazos payment for 3.8% of the cost of transmission lines associated with Comanche Peak. On August 31, 1982, Brazos acquired an undivided interest in and to all transmission lines, facilities, and real estate associated with the Comanche Peak-Cleburne Junction, and Cleburne Junction-Everman 345 KV electric transmission lines situated in Hood, Somerville, Tarrant, and Johnson Counties, Texas. Such acquisition, while in an agreement separate from that covering Brazos' ownership interest in CPSES, was in accordance with the parties' 1979 Transmission Agreement. Copies of Bill of Sale and Special Warranty Deed and Assignment of Easements are attached as Exhibit C1.

Under the interconnection agreement Brazos has with TP&L (now TUEC), there are facility schedule changes from time to time, resulting in added or deleted points of interchange between Brazos and the Texas Utilities System. A list of facility schedule changes occurring since September 15, 1980, is attached as Exhibit C2.

Changes in transmission, with respect to connections to wholesale customers, are detailed on the schedule entitled "New Connections to Wholesale Customers," attached hereto as Exhibit C3.

Brazos was a party to, and has reached settlement in FERC Docket Nos. ER82-545 et al. That docket concerns, inter alia, transmission tariffs for certain transmission services to be provided within ERCOT, within the Southwest Power Pool, and between ERCOT and SWPP, by the CSW subsidiaries, HLP, and TUEC. The TUEC tariff would provide certain transmission service to and from the interstate interconnections for certain ERCOT utilities, including Brazos.

The changes in interconnection contemplated in the proposed modifications to the settlement approved in FERC Docket No. EL79-8, discussed above, should also be considered as part of this response. Exhibit C4, the notice of petition for those changes, identifies them more completely.

- d. Changes in the ownership or contractual allocation of the output of the nuclear facility. Reasons and basis for such changes should be included.

At the outset, it must be noted that there is at present no output from CPSES, and that there will be none in the near future. At present, ownership shares in CPSES constitute nothing more than potential obligations to pay money.

A dispute has arisen between Brazos and TUEC as to whether either party is in default of obligations under the Joint Ownership Agreement. TUEC has taken the position, disputed by Brazos, that Brazos' failure to make continuing payments for construction costs for CPSES reduces Brazos' ownership and energy entitlements from the project. If TUEC's position should prevail, Brazos' supply squeeze problems will be exacerbated.

By payment of \$380,000 to TUEC on May 21, 1985, Brazos exhausted all loan funds available from the Rural Electrification Administration (REA) for construction payments for CPSES. See Exhibit D1. Such funds included an original loan of \$96,136,000 and a supplemental loan of \$95,500,000. Brazos has been unable to secure loan commitments, releases, or approvals from REA which would enable it to make further construction payments.

By letter dated May 20, 1985 (Exhibit D2), Brazos informed its co-owners of its desire to sell its interest in CPSES.

By letter dated May 29, 1985 (Exhibit D3), Brazos reiterated to TUEC its continuing need for information and explanation concerning the cost overruns and delays in CPSES.

By letter dated June 10, 1985 (Exhibit D4), TUEC responded that it felt that it had provided all required information, and claimed that TUEC had honored all obligations under the Joint Ownership Agreement.

By letter dated September 16, 1985 (Exhibit D5), TUEC purported to provide written notice that Brazos had failed to make payments within the meaning of paragraph 18.02 of the Joint Ownership Agreement.

By letter dated September 27, 1985 (Exhibit D6), Brazos responded that TUEC and its affiliates, and not Brazos, were in default of contractual and other obligations. By letter dated October 1, 1985 (Exhibit D7), Brazos supplemented Brazos' notice that TUEC was in default.

By letter dated October 7, 1985, Brazos gave TUEC notice of claim under the Texas Deceptive Practices - Consumer Protection Act (Exhibit D8). By letter dated November 4, 1985 (Exhibit D9), TUEC denied that Brazos had any valid claim.

By letter to TMPA and Tex-La, dated November 1, 1985, TUEC claimed that Brazos' alleged default entitled the other co-owners to assume a portion of Brazos' entitlements proportionate to the amounts by which Brazos was allegedly in default. Exhibit D10. By letter dated November 7, 1985, Brazos denied that it was in default (Exhibit D11).

In the present litigation ongoing in Texas district courts, TUEC is seeking orders requiring Brazos to make payments purportedly due under the Joint Ownership Agreement. Brazos, in

addition to its damage claims, is seeking rescission of the Joint Ownership Agreement.

- e. Changes in design, provisions, or conditions of rate schedules and reasons for such changes. Rate increases or decreases are not necessary.

Brazos made its first and only rate filing with the Public Utility Commission of Texas in 1981. New rates as a result of the filing were effective January 1982. A copy of the Public Utility Commission of Texas Examiner's Report and Final Order is attached as Exhibit E1. Prior member rates were established in 1976. Non-member rates were on an individual contract basis, but with the same rate for all non-members.

The 1982 rate was in conjunction with cost increases of new facilities planned by Brazos to meet its increasing load requirements. The major items of additional cost were payments to San Miguel Electric Cooperative, Inc., for lignite fired generation, cost of the 345 KV line from the San Miguel plant, and wheeling charges to bring San Miguel power into the Brazos System.

The rate case resulted in a single tariff for members and non-members alike. The tariff makes provision for separate recovery of demand and energy related components of purchased power costs through a demand cost adjustment and an energy cost adjustment.

The primary reason for implementation of separate cost adjustments was the impact of San Miguel costs. These adjustment clauses are currently being used to pass on purchased power costs presently incurred by Brazos to replace the power that Brazos had expected to receive from CPSES.

- f. List of all (1) new wholesale customers, (2) transfers from one rate schedule to another, including copies of schedules not previously furnished, (3) changes in licensee's service area, and (4) licensee's acquisitions or mergers.

- (1) New wholesale customers of Brazos Electric Power Cooperative since September 15, 1980, are Dickens Electric Cooperative, Inc., P.O. Box 309, Spur, Texas 79370, and Gate City Electric Cooperative, Inc., P.O. Box 69, Childress, Texas 79201, both joining Brazos on April 1, 1986. Two of Brazos' wholesale customers, Limestone County Electric Cooperative and Robertson Electric Cooperative have merged into one cooperative, Navasota Valley Electric Cooperative, Inc., P.O. Box 848, Franklin, Texas 77856.
- (2) See answer to item (e), above. A copy of Brazos' rate schedule is attached as Exhibit F2.
- (3) Since Brazos provides no retail service, certification is as to its facilities, not as to territory. In a broader sense, Brazos' service area has increased with the addition of two wholesale customers, Dickens Electric Cooperative, Inc. and Gate City Electric Cooperative. Dickens serves retail customers in Crosby, Dickens, Garza, Kent, King, Motley and Stonewall Counties, Texas, and Gate City serves

retail customers in Childress, Cattle, Foard, King, Hardeman, Hall, Motley, and Dickens Counties, Texas.

- (4) Brazos has had no acquisitions or mergers, except the merger of two of its members into one as discussed in part 1 of the response to this item.

- g. List of those generating capacity additions committed for operation after the nuclear facility, including ownership rights or power output allocations.

While Brazos has no generating capacity additions, ownership rights or power output allocations committed for operation after CPSES, it is studying the installation of gas turbines, load management, and purchases from cogenerators and similar power suppliers to meet capacity requirements during the early 1990's.

- h. Summary of requests or indications of interest by other electric power wholesale or retail distributors, and licensee's response, for any type of electric service or cooperative venture or study.

See Brazos' response to item (f), supra, for new wholesale customers. At the same time Dickens and Gate City were considering membership, three other electric cooperatives, Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., and Southwest Texas Electric Cooperative, Inc., were considering joining Brazos. Due to the problems with CPSES, as stated in the enclosed Exhibits H1, H2, and H3, the latter three cooperatives decided against membership in Brazos. For example, Coleman County told Brazos that "[t]he Comanche Peak Project, and the present power costs were the primary factors in our decisions" (i.e., decisions not to take service from Brazos).

Respectfully submitted,

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EXHIBIT A1