



Control Number: 14



Item Number: 1

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IN THE MATTER OF THE EMERGENCY HEARING  
ON INTRASTATE AND INTERSTATE SERVICE OF  
TEXAS INTERCONNECTED SYSTEM

PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER

On January 7, 1977, Houston Lighting and Power Company (HL&P) filed a petition with the Commission requesting that the Commission set a hearing for the purpose of requiring West Texas Utilities Company (WTU) and Central Power and Light Company (CP&L) to show cause why their actions of May 3-4, 1976, and of August 28, 1976, in commencing synchronous operation with the Southwest Power Pool do not violate Sections 35, 37, 45, 50(1), 58(b) and 60 of The Public Utility Regulatory Act and ordering WTU and CP&L, pending the completion of the hearing, to cease and desist the implementation of any plans for generation or transmission facility construction that would have an adverse impact, from either an economic or electric reliability standpoint, in Texas.

On January 7, 1977, Dallas Power and Light Company (DP&L), Texas Electric Service Company (TESCO) and Texas Power and Light Company (TP&L) filed a petition with the Commission requesting that the Commission order WTU and CP&L to appear and show cause why they should not be ordered to return to the mode of operation which had existed prior to May 4, 1976, and pending final outcome of a hearing on such show cause order to cease and desist from the implementation of any plans for construction, installation or acquisition of any facilities, including but not limited to rights of way, poles, wire, transmission line(s) or other property, which would facilitate in any manner interconnected operation with any electric utility company or companies located outside the State of Texas or to purchase or contract to purchase any generation facilities or otherwise acquire the right to receive electric power from any facility or electric utility company or companies located outside the State of Texas.

On January 10, 1977, the Lower Colorado River Authority (LCRA) joined in the petitions of HL&P, DP&L, TESCO and TP&L and requested the Commission to order WTU and CP&L to appear and show cause why they should not be ordered to return to operation wholly within the State of Texas and pending final outcome of a hearing on such show cause order to cease and desist from the implementation of any plans for construction, installation or acquisition of any facilities or other property for the purpose of interconnected operation with any electric utility company outside the State of Texas.

On January 25, 1977, a pre-hearing was held for the purpose of determining whether or not it was necessary to order any disconnection or interconnection among the various systems in order to stabilize the reliability of those companies serving rate payers in the State of Texas. After hearing argument the Commission determined that it had jurisdiction to order disconnections or interconnections but it did not make any such order at the January 25, 1977 pre-hearing.

On February 1, 1977, another pre-hearing was held at which time the parties reported on the progress of negotiations among themselves and the Commission ordered them to report back on the day of the hearing which was scheduled for February 7, 1977.

The Commission recognizes that there is an energy emergency situation in this country and that as a result of this situation the Congress has enacted the "Emergency Natural Gas Act of 1977" and the Federal Power Commission has issued an order in Docket No. E-9583 as a response to the Emergency Natural Gas Act of 1977.

The Commission recognizes that it should encourage the cooperation of all Texas utilities in this emergency situation.

The Commission further recognizes that assistance rendered by Texas electric utilities will affect reliability within the State and among all of the electric utility companies; however, the Commission encourages participation by Texas electric utilities consistent with safety and reliability within the State.

The Commission authorizes any interconnections made during the duration of the emergency which are feasible in an engineering sense.

The Commission further recognizes that there may be some costs associated with these emergency connections.

The Commission does not order any electric utility which was formerly a member of the Texas Interconnect System to reconnect but it does encourage such reconnections as long as service and reliability are not harmed. Each utility is advised to comply with the guidelines in FPC Docket No. E-9583 in order to ensure that a connection or reconnection does not bring them under Federal Power Commission jurisdiction.

IT IS ORDERED that each party to this proceeding specifically identify the necessary connections which must be made in order to implement emergency assistance and that a hearing be held at 2:00 p.m. on Wednesday, February 23, 1977 for the purpose of reporting back to the Commission the findings of the cost and reliability studies presently being made as well as the contract renegotiations presently being carried out. IT IS FURTHER ORDERED that Southwest Texas Electric Cooperative, Inc. and Concho Valley Electric Cooperative, Inc. are admitted as intervenors in this proceeding.

ISSUED AT AUSTIN, TEXAS on this the 7th day of February, 1977.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: Garrett Morris  
GARRETT MORRIS

SIGNED: Alan R. Erwin  
ALAN R. ERWIN

SIGNED: George M. Cowden  
GEORGE M. COWDEN

ATTEST:

Roy J. Henderson  
ROY J. HENDERSON  
COMMISSION SECRETARY  
AND DIRECTOR OF HEARINGS

5012  
DOCKET NO. 14

RE: THE APPLICATION OF HOUSTON LIGHTING  
AND POWER COMPANY, ET AL, FOR RECON-  
NECTION OF THE TEXAS INTERCONNECT SYSTEM

THE PUBLIC UTILITY COMMISSION  
OF TEXAS

ORDER DENYING MOTION FOR REHEARING

On June 2, 1977 a Final Order was issued in this Docket No. 14. Motions for rehearing were filed by Central Power and Light Company (CPL), West Texas Utilities Company (WTU), the City of Austin and the Lower Colorado River Authority (LCRA) on June 30, 1977, and an Amended Final Order was issued on July 25, 1977. Motions for rehearing were filed by CPL and WTU.

Having considered each of the points raised in these motions for rehearing and finding them without merit, it is ORDERED that they be denied.

ISSUED AT AUSTIN, TEXAS on this the 23d day of August, 1977.

PUBLIC UTILITY COMMISSION OF TEXAS

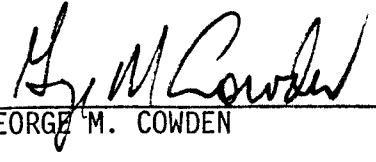
SIGNED:

  
GARRETT MORRIS


SIGNED:

  
ALAN R. ERWIN

SIGNED:

  
GEORGE M. COWDEN

ATTEST:

  
ROY J. HENDERSON  
COMMISSION SECRETARY  
AND DIRECTOR OF HEARINGS

DOCKET NO. 14

RE: THE APPLICATION OF HOUSTON  
LIGHTING AND POWER COMPANY, ET AL, FOR  
RECONNECTION OF THE TEXAS INTERCONNECT  
SYSTEM

THE PUBLIC UTILITY COMMISSION OF TEXAS

Interim Order

Houston Lighting & Power Company, herein referred to as HL&P, Texas Power & Light Company, herein referred to as TP&L, Dallas Power and Light Company, herein referred to as DP&L, and Texas Electric Service Company, herein referred to as TESCO, filed with The Public Utility Commission of Texas on January 7, 1977, complaints against West Texas Utilities Company, herein referred to as WTU, and Central Power and Light Company, herein referred to as CP&L, alleging that they had breached their contract with other members of the Texas Interconnect System causing a disruption of such system resulting in loss of economical, reliable, and safe electrical service to the rate payers of such interconnected systems, and praying for reconnection of such system as it existed on May 3, 1976.

That subsequently the following parties answered or intervened to become parties to the proceedings in said docket:

1. Central Power and Light Company
2. West Texas Utilities Company
3. Lower Colorado River Authority, herein referred to as LCRA
4. The City of Austin, Texas
5. City Public Service Board of City of San Antonio, herein referred to as CPSB
6. South Texas Electric Cooperative
7. Brazos Electric Power Cooperative, Inc.
8. Medina Electric Cooperative, Inc.
9. Western Farmers Electric Cooperative
10. Southwest Texas Electric Cooperative, Inc.
11. Concho Valley Electric Cooperative
12. Texas Municipal Power Agency

Based upon the pleadings and evidence submitted during the several public hearings in said docket, Federal Power Commission order in Docket No. E-9583, and Docket No. E-9558, which the Commission takes official notice of, the Commission makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. That each of the above parties in their pleading have petitioned the Commission to order reconnection of the Texas Interconnect System on the grounds that it is in the public interest, which pleadings are recognized as admissions from all parties for purposes of this interim order.
2. That the Commission has encouraged reconnection or in the alternative if the system is to remain divided, allowing each company or authority the option to connect to the system furnishing the greatest reliability of electric service.
3. That there presently appears no possibility of voluntary reconnection of the Texas Interconnect System, and it now further appears that the LCRA, City of Austin and CPSB will not be allowed to disconnect from CP&L and WTU even though they have expressed a desire to do so, and have alleged that the lack of reliability is causing them to maintain high spinning reserves which is both costly and wasteful of scarce fuels.
4. That all parties admit that the Texas Interconnect System is an old and reliable system and that it has served the interconnected parties and the public reliably, economically and well.
5. That the Texas Interconnect System was founded and based upon contractual conditions, and its dissolution resulted from the breach of such contractual conditions by WTU.
6. That since the Texas Interconnect System is founded upon contracts between the parties hereto, even if WTU & CP&L claim such contracts are void or voidable as being against public policy, until such contracts are declared to be void or voidable by a court of general jurisdiction this Commission should not require a reconnection which would force any party to violate a contract entered into in good faith between the parties hereto with respect to the formation and operation of such system.

7. That there is presently pending in the Federal District Court for the Northern District of Texas, sitting in Dallas, Texas, an action on the question of whether such contracts are void or voidable, and this Commission has neither the jurisdiction nor the inclination to pre-empt said Court on the matter.
8. That synchronous operations between WTU and CP&L and the Southwest Power Pool was begun on August 28, 1976, but because of problems arising due to wide power fluctuations such operations were disconnected on January 22, 1977.
9. That a radial tie off WTU's system now serving a few customers in Oklahoma has no significant economic impact, or federal jurisdictional impact, but is maintained for the purpose of precluding a reconnection of the Texas Interconnect System until all other parties agree to waive their contract rights as to the character and operation of such system.
10. That this Commission is not concerned with the question of whether such system or any member thereof operates in intra or inter state commerce, but instead is concerned only with the public interest.
11. That the radial tie from WTU into Oklahoma is a violation of that company's contract with other members of the Texas Interconnect System and is an impediment to the reconnection of such system and is not in the public interest and should be removed or disconnected.
12. That to Order a reconnection of such system without the removal of such radial tie would violate the contract rights of TP&L, DP&L, TESCO and HL&P, and would in effect usurp the rights of the Federal District Court to pass on the validity of such contracts.
13. That the Texas Interconnect System should be immediately restored to and maintained in its condition as of May 3, 1976, until the end of this hearing and a final order therein.

Conclusions of Law

1. That until some authority with general jurisdiction determines otherwise the Texas Interconnect System as it existed on May 3, 1976, is the only legal interconnect system, and therefore, the only one which this Commission can order to be reconstituted at this time.
2. That since the Order in Federal Power Commission Docket No. E-9583 and Docket No. E-9558 allows interconnection without jurisdiction on intrastate parties, the conditions for reconnection has absolutely no impact or bearing on interstate commerce.
3. That the reconnection and reestablishment of the Texas Interconnect System as it existed on May 3, 1976, shall be without prejudice to the rights of any party to this proceeding, nor shall it in any way limit or preclude the Commission from entering the proper order at the close of these proceedings.
4. That the Commission has the jurisdiction over the parties and the authority under the law to issue an interim order herein.

ORDER

It is, therefore, the ORDER of this Commission that the parties hereto immediately reestablish the Texas Interconnect System as it existed on May 3, 1976, and as contractually agreed to by such parties and that any and all disconnects which must be made to remove the contract impediments to such reconnection be made immediately.

It is further ORDERED that such system as it existed on May 3, 1976, be maintained without change after reconnection until further order by this Commission.

It is the further ORDER of this Commission that the public interest requires immediate reconnection of such system, and that failure of any party or parties to make immediate compliance with this ORDER shall subject the defaulting party or parties to all penalties provided in law for violation of an ORDER of this Commission.

ENTERED AT AUSTIN, TEXAS, THIS 2d DAY OF MAY, 1977.

SIGNED: \_\_\_\_\_

GARRETT MORRIS

SIGNED: \_\_\_\_\_

ALAN R. ERWIN

SIGNED: \_\_\_\_\_

GEORGE M. COWDEN

ATTEST:

Roy J. Henderson  
ROY J. HENDERSON  
COMMISSION SECRETARY AND  
DIRECTOR OF HEARINGS



PUBLIC UTILITY COMMISSION OF TEXAS

RE: DISRUPTION OF THE TEXAS INTERCONNECT SYSTEM DUE TO DISCONNECTIONS MADE BY CERTAIN MEMBERS OF THE TEXAS INTERCONNECT SYSTEM AFTER LEARNING THAT WEST TEXAS UTILITIES COMPANY HAD CONNECTED SERVICE ACROSS THE OKLAHOMA STATE LINE

DOCKET NO. 14

STATEMENT OF THE CASE

The Public Utility Commission of Texas (Commission) after being informed that West Texas Utilities Company (WTU) had connected service across the Oklahoma State line and that certain other members of the Texas Interconnect System had disconnected from the Texas Interconnect System because of this, called an emergency meeting for Friday, May 7, 1976 at 2:00 p.m. All members of the Texas Interconnect System were represented at this hearing.

At the conclusion of the May 7, 1976 hearing, the Commission made the following findings of fact:

FINDINGS OF FACT

1. A disconnection of the Texas Interconnect System had been effected.
2. The Commission on its own motion called an emergency meeting for 2:00 p.m. on May 7, 1976 because of this disconnection.
3. All members of the Texas Interconnect System were present and represented at the emergency meeting.
4. West Texas Utilities Company had connected service across the Oklahoma State line and was transporting power across it on May 3, 1976, and that on being advised of this situation, Texas Utilities Company and its subsidiaries, Texas Power and Light Company, Dallas Power and Light Company, and Texas Electric Service Company had severed connections with West Texas Utilities Company and all other members of the Texas Interconnect System except Brazos Electric Power Cooperative.
5. Houston Lighting and Power Company, on learning of the interconnection across state lines by West Texas Utilities Company, had severed all of its interconnections with other members of the Texas Interconnect System.
6. West Texas Utilities Company, Central Power and Light Company, the Lower Colorado River Authority, The City of Austin, and The City Public Service Board of San Antonio are still interconnected in one system and are presently operating as one system.
7. There is no immediate danger to the public as a result of the disconnect; however, the interest of the public requires the immediate reestablishment of an intrastate interconnected system among the companies which wish to continue to operate intrastate only.

Based on these findings of fact, the Commission issued the following Interim Order:

INTERIM ORDER

Those members of the Texas Interconnect System wishing to remain in intrastate commerce shall commence negotiations immediately for the reestablishment of an intrastate interconnect system and, further, that all parties shall begin immediate negotiations for the establishment of an emergency interconnection between the interstate and intrastate systems so that power may be transferred between the two systems in case of a disaster or emergency situation. This interconnection shall be one which will not subject the intrastate utilities to the jurisdiction of the Federal Power Commission.

All parties shall advise the Commission on or before 10:00 a.m. on May 21, 1976 in writing of their election as to which system they desire to be interconnected with and what steps they have taken to reestablish both regular interconnection within the intrastate system and what emergency interconnections have been made between the two systems in case of disaster or emergency situations.

The Commission shall enter its final order in this matter on May 21, 1976, after receipt of the information stated above.

On May 21, 1976 the Commission reopened this proceeding after having received written answers from all parties except Central Power and Light Company and The City of Austin. These two parties made written replies later that afternoon. After reconvening and receiving the written statements from the parties, the Commission made the following findings of fact:

#### FINDINGS OF FACT

1. A Texas intrastate interconnect system has been reestablished by the reconnection of Houston Lighting and Power Company with the Texas Utilities Company system, comprised of its three subsidiaries, Dallas Power and Light Company, Texas Power and Light Company, and Texas Electric Service Company.
2. It is in the public interest that this intrastate interconnect system be maintained.
3. The Lower Colorado River Authority, The City Public Service Board of San Antonio, and The City of Austin have expressed the desire to reconnect with the intrastate system composed of Houston Lighting and Power Company and Texas Utilities Company.
4. Central Power and Light Company wishes to reconnect with Houston Lighting and Power Company.
5. West Texas Utilities Company wishes to reconnect with the Texas intrastate system but not if it means restricting its business to intrastate business only as it is not willing to withdraw from interstate business in order to reconnect.

Based on these findings of fact, the Commission makes the following final order:

#### FINAL ORDER

The Lower Colorado River Authority, The City Public Service Board of San Antonio, and The City of Austin shall be allowed to reconnect with the intrastate system under the following conditions: (1) They can obtain an exemption from the Federal Power Commission for this reconnection and the reconnection will not place the intrastate system in interstate commerce. (2) The Lower Colorado River Authority may apply to the Federal Power Commission for a permit which will allow it to reconnect with the intrastate system for both emergency and normal power uses, provided that the power is not flowed through to the interstate system. (3) The Lower Colorado River Authority shall act as a neutral island between the interstate and intrastate systems. If this permission is not obtainable from the Federal Power Commission, the Lower Colorado River Authority may reconnect to the intrastate system upon submission of a plan to the Public Utility Commission of Texas for the Lower Colorado River Authority's orderly withdrawal from the interstate system, one which will not harm the rate payers currently being served by the Lower Colorado River Authority and which will not diminish the Lower Colorado River Authority's reliability of service in any way.

West Texas Utilities Company is allowed to reconnect with the intrastate system provided that it can obtain an exemption from the Federal Power Commission which will permit West Texas Utilities Company to connect with the intrastate system for emergency purposes only. This connection can be made only if the intrastate system is not put into interstate commerce by this connection.

Central Power and Light Company may reconnect with the intrastate system under the same conditions required of West Texas Utilities Company.

It is the judgment of the Public Utility Commission of Texas that these emergency connections under exempt status are needed by the people of Texas and are in the public interest.

DONE AT AUSTIN, TEXAS on this the 24th day of May, 1976.

SIGNED: \_\_\_\_\_

GARRETT MORRIS

SIGNED: \_\_\_\_\_

ALAN R. ERWIN

SIGNED: \_\_\_\_\_

GEORGE M. COWDEN

ATTEST: \_\_\_\_\_

ROY J. HENDERSON

SECRETARY OF THE COMMISSION

DOCKET NO. 14

RE: THE APPLICATION OF HOUSTON LIGHTING AND POWER COMPANY, ET AL, FOR RECONNECTION OF THE TEXAS INTERCONNECT SYSTEM | THE PUBLIC UTILITY COMMISSION OF TEXAS

Amended Final Order

After hearing and considering all motions for rehearing on July 11, 1977, the Commission hereby amends its final order to be and read as follows:

Houston Lighting & Power Company, herein referred to as HL&P, Texas Power & Light Company, herein referred to as TP&L, Dallas Power and Light Company, herein referred to as DP&L, and Texas Electric Service Company, herein referred to as TESCO, filed with The Public Utility Commission of Texas on January 7, 1977, complaints against West Texas Utilities Company, herein referred to as WTU, and Central Power and Light Company, herein referred to as CP&L, alleging that they had breached their contract with other members of the Texas Interconnect System, hereinafter referred to as TIS, causing a disruption of such system resulting in loss of economical, reliable, and safe electrical service to the rate payers of such interconnected systems, and praying for reconnection of such system as it existed on May 3, 1976.

That subsequently the following parties answered or intervened to become parties to the proceedings in said docket:

1. Central Power and Light Company
2. West Texas Utilities Company
3. Lower Colorado River Authority, herein referred to as LCRA
4. The City of Austin, Texas
5. City Public Service Board of City of San Antonio, herein referred to as CPSB
6. South Texas Electric Cooperative, Inc.
7. Brazos Electric Power Cooperative, Inc.
8. Medina Electric Cooperative, Inc.
9. Western Farmers Electric Cooperative
10. Southwest Texas Electric Cooperative, Inc.

11. Concho Valley Electric Cooperative, Inc.

12. Texas Municipal Power Agency

Based upon the pleadings and evidence submitted during the several public hearings in said docket and in the final hearing of said docket, Federal Power Commission Order in Docket No. E-9583, and Docket No. E-9558, which in compliance with Council's request during the course of such proceedings and without objections raised during such hearing the Commission takes official notice of, the Commission makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. That the TIS had developed over a long period of time, some of such interconnections going back as far as 1924.
2. That as the interconnections increased, the transmission and generating facilities of TIS were developed to operate in synchronism, so that the loss of any unit on the system automatically caused the other units to increase output to pick up the lost load.
3. That as of May 3, 1976, there were 282 generating units in the TIS synchronous operation.
4. That the TIS prior to May 3, 1976, utilized central planning for operational controls to insure reliability, and stability of the system.
5. That the TIS was not designed to operate in synchronism with the Southwest Power Pool or any other large system.
6. That the TIS cannot operate in synchronism with the Southwest Power Pool or any other large system without the expenditure of large sums of money for new and improved transmission lines.
7. That the costs for adequate transmission lines for the TIS to operate in synchronism with the Southwest Power Pool could equal or exceed one billion dollars.
8. That interconnection with the Southwest Power Pool would not increase the reliability of TIS, but would increase the time required for stabilization of the system in case of the loss of load on one of the systems.
9. That the costs for proper interconnection between the TIS and the Southwest Power Pool exceeds the benefits to the rate payers on the Texas Interconnect System.

10. That the rate payers of the TIS can ill afford to carry the extra burden of interconnection with the Southwest Power Pool in addition to the cost of converting the generating facilities of such system so as to use more abundant fuels.
11. That each of the members of the TIS in order to protect themselves against the cost and loss of stability of interconnection with the Southwestern Power Pool or other large systems had conditioned such interconnection on intrastate operation of each of the interconnected companies through individual contracts or through the terms and conditions of membership in the Electric Reliability Council of Texas, hereinafter referred to as ERCOT.
12. That such condition was contractual and if not covered by individual contracts was part of the terms and conditions of the ERCOT agreement and was predicated upon the fact that once a company enters interstate commerce some other State or Federal Authority may order interconnection regardless of the costs or benefits to the members of the Texas Interconnected System.
13. That if any one of the interconnected companies goes into interstate commerce all the interconnected companies are placed in interstate commerce.
14. That each company should have the choice of operating in the mode which best serves the interest of its customers.
15. That WTU is currently, and was prior to May 3, 1976, operating in intrastate commerce through its southern division, and in interstate commerce through its northern division.
16. That any party to the interconnected system which wishes to withdraw from such intrastate system should first furnish the Commission with complete plans for such withdrawal, together with the costs thereof, as well as sufficient engineering data to establish the reliability of service after withdrawal.
17. That each company in the TIS should have the right to operate in interstate commerce if it so desires provided that it does not increase the costs or lessen reliability to its rate payers as the results of such operations, and provided further that it first withdraws from the Texas Interconnect System.
18. That all the members of TIS were also members of ERCOT and such interconnections being conditioned on contracts between the various parties, such contracts are presumed to be valid until set aside or voided by a court of general jurisdiction.

19. That the mode of operations by WTU after May 4, 1976, was not in the public interest or the interest of its rate payers, but was done for the benefit of the corporate interest of Central and Southwest Corporation, the holding company owning its common stock.
20. That the mode of operation of WTU subsequent to May 4, 1976, caused the dissolution of the TIS resulting in loss of reliability and increased operating costs for the customers of all the members of the system.
21. That the radial tie into Oklahoma from WTU's southern division did not serve any interest except the Corporate interest of Central and Southwest Corporation, the holding company for WTU and CP&L.
22. That the radial tie into Oklahoma from WTU's southern division on May 4, 1976, resulted in dissolution of the Texas Interconnect System and increased operating costs to all rate payers of all the members of such system.
23. That WTU gave no notice to any other member of the TIS of the radial tie into Oklahoma because the purpose of such tie was to force all members of such system into interstate commerce for the benefit of the corporate interest of Central and Southwest Corporation.
24. That synchronous operations between WTU and the Southwest Power Pool which began August 28, 1976, and continued to January 22, 1977, was unsatisfactory for WTU and all companies interconnected with them because of the wide power swings and delayed stabilization time after an outage.
25. That the corporate interest of Central and Southwest Corporation and the public interest are not necessarily parallel.
26. That the public interest requires electric utilities to maintain such transmission interconnections as are helpful to the reliable and efficient utilization of existing and proposed generation and transmission capacity.
27. That the series of interconnections between and through the TIS has been relied upon historically to provide, and is presently capable of providing the interconnections necessary for the efficient and reliable utilization of the generation and transmission capacity of the electric utilities heretofore interconnected to said system.
28. That the present plant of utilities connected by and through the generation and transmission network of the TIS as of May 3, 1976, is designed in reliance upon said network and depends upon maintenance of said connections for its reliable and efficient operation.

29. That no other system of interconnections is in place or proposed which will reliably and efficiently utilize the generation and transmission capacity of existing or proposed plant of the electric utilities heretofore connected.
30. That construction of planned new generation and transmission capacity essential to meet future load growth, and to implement necessary conversion to fuels other than natural gas, requires certainty that the utility systems connected together in the TIS will remain so interconnected or substantially so, henceforth, insofar as can now be foreseen.
31. That the TIS was founded and based upon contractual conditions, either directly or through ERCOT terms and conditions for membership, and its dissolution resulted from the breach of such contractual conditions by WTU.
32. That since the TIS, either directly or through the ERCOT agreements, is founded upon contracts between parties hereto, even if WTU and CP&L claim such contracts are void or voidable as being against public policy, until such contracts are adjudicated to be void or voidable by a final judgment of a court of competent jurisdiction, this Commission should not require a reconnection which would force any party to waive its rights under a contract entered into in good faith between the parties hereto with respect to the formation and operation of such system.
33. That there is presently pending in the Federal District Court for the Northern District of Texas, sitting at Dallas, Texas, an action to determine whether such contracts are void or voidable, and this Commission has neither the jurisdiction nor the inclination to pre-empt said Court on the matter.
34. That a radial tie off WTU's southern division system which on May 1, 1977, was serving few customers in Oklahoma had no significant economic impact, and since the Order in Federal Power Commission Docket No. E-9583 had no jurisdictional impact, but was maintained solely for the purpose of precluding a reconnection of the TIS unless all other parties should agree to waive their contract rights as to the character and operation of such system.
35. That this Commission is not concerned with the question of whether the TIS or any member thereof operates in intrastate or interstate commerce, but instead is concerned only with the public interest.



36. That the radial tie from WTU's southern division into Oklahoma is contrary to the terms and conditions of the ERCOT agreement which constitute a part of WTU's contract with other members of the TIS and is an impediment to the reconnection of such system and is not in the public interest and should be removed or disconnected.
37. That to order a reconnection of the TIS without the removal of such radial tie would compel TP&L, DP&L, TESCO and HL&P to operate contrary to the terms of their interconnection contracts, and would in effect usurp the rights of the Federal District Court to pass on the validity of such contracts.
38. That existing transmission facilities of WTU are not capable of sustaining synchronous operations between the utility systems connected through the TIS and those connected through the Southwest Power Pool, and the additional high-voltage transmission facilities which would be necessary in Texas electrically to sustain such synchronous operations are not presently in place or under construction or covered by certificates of convenience and necessity or by applications for such certificates.
39. That the existing plant of CP&L is not capable of providing reliable low-cost electric power and energy if disconnected from the generation and transmission interconnections which existed through the TIS as of May 3, 1976.
40. That the public interest requires the maintenance of the series of interconnections existing on May 3, 1976, between the electric utilities then interconnected by and through the TIS.
41. That pursuant to the interim order of this Commission of May 2, 1977, the interconnections of the TIS have been restored as they existed on May 3, 1976, and that WTU has disconnected its northern division facilities from that portion of its system interconnected with the TIS.
42. That CP&L and WTU have given notice of their intention to challenge the authority of this Commission to enter any order affecting in any way the flow of electricity across state boundaries on the grounds that such orders are violative of the supremacy clause and the commerce clause of the Federal Constitution.

6. That the public interest requires this Commission to order the immediate and permanent reconnection of the interconnections between the utility systems comprising the Texas Interconnected System.
7. That this Commission has no jurisdiction to adjudicate the validity or invalidity of the contractual obligation of WTU to refrain from interstate sales of electric energy through its southern division system.
8. That there is no showing in this proceeding that the public interest requires or would justify this Commission in relieving WTU of its contractual obligations or requiring HL&P, TESCO, DP&L or TP&L to waive their contract rights within the standards pronounced in Federal Power Commission v. Sierra Pacific Power Co., 350 U. S. 348 (1956), and High Plains Natural Gas Co. v. Railroad Commission of Texas, 467 S.W.2d 532 (Tex. Civ. App. - - Austin 1971, writ ref'd n.r.e.).

ORDER

The following, therefore, is the ORDER of this Commission:

1. The Interim Order of this Commission of May 2, 1977, and the actions of the parties pursuant thereto, are confirmed and approved; the said Interim Order is now incorporated into this amended Final Order by reference.
2. All interconnections presently in existence between the utility systems comprising the TIS, together with all such future interconnections as may hereafter be established between them with the approval of this Commission shall henceforth remain connected, unless, upon application to this Commission and notice to all parties to this proceeding, this Commission shall find that any proposed disconnection would serve the public interest.
3. WTU may block over electric loads between its northern division system and its southern division system which does not result in the interstate transmissions or sale of electric energy by or at the southern division system.
4. WTU is prohibited from re-establishing a connection between the southern division of its system which is now connected to the TIS and the northern division of its system being that segment which is not now so connected, unless:
  - A. The contractual prohibitions against interstate sales shall be finally adjudicated to be void or voidable,
  - B. This Commission shall authorize or the Federal Power Commission shall order a connection, or
  - C. A court of competent jurisdiction shall order WTU to take action inconsistent with the foregoing prohibition.
5. WTU operating through its southern division and all other operating utility systems connected with the TIS are prohibited from making connections with utility systems not so connected or with segments thereof and from providing service outside of their certificated areas, unless:
  - A. The service is authorized by specific provisions of The Public Utility Regulatory Act, Art. 1446(c) V.A.C.S.
  - B. The Federal Power Commission shall order such a connection or,

43. That the period between May 3, 1976, and May 2, 1977, during which the TIS was bifurcated, was characterized by reduced reliability, increased spinning reserves, higher costs, and greater consumption of natural gas than had been the period preceding May 3, 1976; that such undesirable conditions can be expected to recur if this Commission were to permit the TIS again to be bifurcated.
44. Although at this time the Commission does not find an immediate need for the expansion of the TIS into a power pooling network, neither does this Commission reject its responsibility to provide for such an arrangement at such time in the future, if any, when it would benefit the rate payers of the State of Texas.
45. That the objections and exceptions to the final order herein contained in the motions for rehearing except to the extent adopted herein should be overruled for want of merit.

Conclusions of Law

1. That the Commission has jurisdiction over the parties.
2. That utilities which undertake to provide electric utility service in the State of Texas are under a duty to provide and maintain such service, instrumentalities and facilities as shall be adequate, efficient and reasonable for the provision of such service irrespective of whether such utilities also provide service to or receive service from other states or are subject to the jurisdiction of the Federal Power Commission.
3. That the State of Texas has the authority and power to insure that utilities providing service in this State meet their public utility duties irrespective of whether such utilities also provide service to or receive service from other states or are also subject to the jurisdiction of the Federal Power Commission and that such power and authority is vested in this Commission.
4. That the incidental and insubstantial effect upon interstate commerce of the exercise of such jurisdiction in this case does not constitute an undue burden on interstate commerce.
5. That this Commission has the power to compel interconnection of utilities in the public interest.

- C. This Commission shall authorize such a connection or service (a) to cope with an emergency or (b) upon application, notice to all parties hereto, and finding that the proposed interconnection or service would serve the public interest.
- 6. That any party to the interconnected system which wishes to withdraw and disconnect from such intrastate system shall furnish the Commission with complete plans for such withdrawal together with the costs thereof, as well as sufficient engineering data to establish the reliability of service after withdrawal and disconnection.
- 7. That such information required in Section #5 above shall:
  - A. Be given to the Commission at least thirty days prior to the planned withdrawal and disconnection,
  - B. Such notice of the planned withdrawal and disconnection shall be given to each member utility of the TIS at least thirty days prior to the planned withdrawal,
  - C. The cost information provided to the Commission shall be sufficient to allow the Commission to determine the probable economic impact of the planned withdrawal on the rate payers of both the withdrawing utility and the rest of the TIS utilities,
  - D. The engineering information provided to the Commission shall be sufficient to allow the Commission to determine the probable impact of the planned withdrawal and disconnection on the system reliability of both the withdrawing system and the rest of the TIS utilities.
  - E. The rest of the members of the TIS, within ten days of receiving notice from the member utility of its planned withdrawal and disconnection, shall file jointly or individually with the Commission, information regarding the probable impact of the planned withdrawal on system operating costs and system reliability, and notice of any significant changes in TIS operation which the planned withdrawal and disconnection will necessitate.
- 8. Members of the TIS shall file with the Commission every six months a report detailing the utility's fuel conversion program. The report should provide information on present fuel mix, conversion achieved in the reporting period,

and conversion scheduled in the coming period. Information should be provided for all available capacity and the actual capacity used. Information should be provided describing the utility's fuel acquisition program to meet the conversion schedule described. The reports shall be due January and July 1st of each year.

9. Members of the TIS shall file monthly with the Commission a record of all forced outages experienced by the utility during the reporting period. The report should include the date, size (MW) duration and probable cause of the outage. The report shall also provide the MW remaining in service during the outage, the coincident system peak during the outage, and the percentage generating capacity reserve of the system at its lowest point during the outage. The report should detail any load interruptions, frequency changes, or other alterations in normal service, if any, which were undertaken by the utility during the period of outage. The report shall be due at the Commission not more than thirty days after the reporting period.
10. Each party hereto which is connected to the TIS and which shall henceforth file an application with this Commission for certification of transmission facilities, shall give immediate notice to all other parties to this proceeding of the filing of such application.
11. Each numbered paragraph of this Order and each supplemental Order which may be entered pursuant hereto, is intended to be and is severable from each other numbered paragraph of this Order and each supplemental Order pursuant hereto. The invalidation of any numbered paragraph of this Order or of any supplemental Order which may be entered pursuant hereto, shall in no wise affect any other numbered paragraph of this Order or any other supplemental Order, but the same shall remain in full force and effect.
12. All motions, objections and requested findings of fact and conclusions of law not included in the above findings and conclusions are hereby overruled for want of merit of each of them.

13. The failure of any party or parties to make compliance with this Order shall subject the defaulting party or parties to all penalties provided in the law for violation of an Order of this Commission.
14. The motions for rehearing, except to the extent that the grounds therefor are incorporated in this Amended Final Order, are overruled for want of merit.

ENTERED AT AUSTIN, TEXAS, this 11th day of July, 1977.

SIGNED: \_\_\_\_\_

GARRETT MORRIS

SIGNED: \_\_\_\_\_

ALAN R. ERWIN

SIGNED: \_\_\_\_\_

GEORGE M. COWDEN

ATTEST:

Roy J. Henderson  
 ROY J. HENDERSON  
 COMMISSION SECRETARY AND  
 DIRECTOR OF HEARINGS