

4.	GSU's Pontchartrain and Spindletop Gas Distribution System (SGDS) Long-Term Contracts .....	41
a.	Cities Recommended Disallowance for GSU's Long-Term Pontchartrain and SGDS Contracts .....	42
b.	ALJ's Recommendations Regarding GSU's Long-Term Natural Gas Expense .....	43
i.	Whether the Pontchartrain Swing Contract is subject to review in this fuel reconciliation after Docket No. 13170? .....	43
ii.	Whether the Pontchartrain and SGDS Contracts are reasonable based on the surrounding circumstances at the time, considering the swing, reliability, and degree of flexibility, they provide? .....	46
5.	ALJ's Recommendation Regarding GSU's Marketing of Excess Capacity in the Spindletop Natural Gas Storage Facility .....	49
a.	To what extent did GSU seek to market excess capacity at its Spindletop natural gas storage facility to third parties during the reconciliation period in an effort to reduce fuel costs for GSU's ratepayers: and, were GSU's efforts in this respect reasonable? .....	49
b.	The Sabine Gas Transmission Company Transportation Agreement and the "Spindletop" Storage Facility .....	49
c.	GSU Reasonably Released Excess Capacity in the Spindletop Storage Facility to the Extent Any Excess Capacity Existed .....	51
B.	Coal Costs .....	53
1.	Coal Costs Attributable to Nelson Station, Unit 6 .....	54
a.	GSU's Spot Coal Purchase for Nelson 6 .....	54
b.	GSU's Long-Term Coal Purchases for Nelson 6 .....	56
c.	The Nelson Rail-Spur .....	56

2.	GSU's Big Cajun II, Unit 3, Coal and Displaced Power Costs .....	57
a.	GSU's Calculation of Displaced Power Costs for Big Cajun II, Unit 3 .....	58
b.	OPC's Recommended Disallowance of Coal Expenses for Big Cajun II .....	59
i.	GSU's September 1994 Coal Cost Calculation .....	59
ii.	GSU's October 1994 Displaced Cost Calculation .....	60
c.	ALJ's Recommendation Regarding Coal and Replacement Power Costs for Big Cajun II, Unit 3 .....	62
i.	What is the Appropriate Methodology for Calculating the "Pseudo-Burn" or Displaced Power costs for Big Cajun II, Unit 3, and how does it affect GSU's Reconcilable Coal Costs for Big Cajun II, Unit 3? .....	62
3.	ALJ's Recommendation Regarding GSU's Long-Term Coal Purchases for Big Cajun .....	64
4.	ALJ's Recommendation Regarding Coal Inventory Accounting Issue: What is the effect on Gulf States and its ratepayers, if any, of GSU's change in coal inventory accounting methodology from last in, first out (LIFO) to average cost in the absence of a corresponding rate base adjustment to fuel inventory in a general rate case? .....	65
C.	Fuel Oil Expenses .....	67
X.	River Bend Nuclear Station Fuel and Outages .....	68
A.	General Overview of River Bend Nuclear Station .....	68
B.	River Bend Nuclear Fuel Costs and the Nuclear Fuel Cycle .....	69
1.	The Nuclear Fuel Cycle .....	70

2.	The History of RBNS Nuclear Fuel Relevant to Fuel Costs .....	71
3.	Cities' Recommended Disallowance of RBNS Nuclear Fuel Costs .....	72
4.	ALJ's Recommendation Regarding GSU's Reconcilable Nuclear Fuel Costs for RBNS .....	73
a.	Whether GSU's Nuclear Fuel Costs for RBNS during the Reconciliation Period are Subject to Review for Reasonableness after the Commission's findings in Docket No. 10894? .....	73
b.	Whether GSU's Nuclear Fuel Costs for RBNS during the Reconciliation Period are Reasonable and Necessary .....	74
c.	Potential Refund of Decontamination & Decommissioning Fees .....	76
C.	Outages at River Bend Nuclear Station .....	77
1.	The Duration of Refueling Outage 5 (RF-5); Outage No. 94-02 .....	77
a.	Cities' Recommended Disallowance and Analytical Methodology .....	78
b.	General Counsel's Recommendation Relating to RF-5 .....	79
c.	ALJ's Recommendation Regarding RF-5 .....	81
i.	Was the duration of GSU's River Bend refueling outage number five (RF-5) reasonable and was the outage prudently planned and managed? .....	81
2.	Forced Outage 94-01 (FO-94-01); Outage No. 94-03: Vessel Transmitter-Spurious Trip .....	83
a.	Rosemount Model 1153 Transmitter Damping .....	84
b.	Cities' Recommended Disallowance for Outage No. 94-03 .....	85

c.	ALJ's Recommendation .....	86
i.	Was the extended forced outage 94-03 at River Bend due, in whole or in part, to imprudent management by GSU/Entergy? .....	86
ii.	Assuming that the extended forced outage 94-03 at River Bend was <i>not</i> due to imprudent management and that fuel costs for GSU increased as a result of the outage, should GSU be required to absorb some or all of the increased fuel costs, or should this risk be borne entirely by GSU's ratepayers? .....	87
3.	Forced Outage 94-02 (FO-94-02); Outage No. 94-04: Recirculation Pump Seals .....	88
a.	GSU's Replacement of the Pump Seals with Tungsten-Carbide Material .....	88
b.	Cities' Recommended Disallowance .....	89
c.	ALJ's Recommendation .....	89
4.	Forced Outage 94-03 (FO-94-03); Outage No. 94-05: Human Error .....	91
a.	MSIV Isolation Testing -- Operator Error Due to Miscommunication .....	91
b.	Cities' Recommended Disallowance -- Management Procedures Ineffective .....	91
c.	ALJ's Recommendation .....	93
XI.	Purchased Power Expenses and Affiliate Transactions .....	94
A.	Purchased Power Supplied by GSU's Affiliate Entergy Operating Companies .....	94
B.	Whether Fuel and Purchased Power Supplied to GSU by its Affiliates During the Reconciliation Period was in Accordance with PURA 95 §2.208(b) .....	95

1.	GSU's System Agreement Payments to Affiliated Entergy Operating Companies -- Purchased Power Affiliate Transactions .....	95
2.	Other Affiliate Transactions: The System Fuels, Inc., Transaction .....	97
C.	GSU's Purchased-Power Transactions with Other than GSU Affiliates or EOCs .....	98
1.	Staff's Recommendation for GSU's Purchased Power Transaction with Agrilectric .....	98
2.	ALJ's Recommendation Regarding GSU's Agrilectric Transaction .....	99
XII.	Revenues from Off-System Sales and Wheeling .....	100
A.	Off-System Sales Adders .....	100
1.	Is there good cause to justify an exception to the allocation of 100 percent of the revenues from off-system sales to ratepayers during the reconciliation period subsequent to the final order in Docket No. 12712? .....	100
2.	Commission Preliminary Order Requires Allocation of Off-System Sales Adders as of April 28, 1994 .....	100
B.	Transmission "Wheeling" Revenues .....	102
1.	Staff's Recommendation and Substantive Rule 23.23(b) Standard for Wheeling Revenues in a Fuel Reconciliation Proceeding .....	103
2.	Cities' Argument: Wheeling Revenues Included in GSU's Fuel Reconciliation .....	104
3.	ALJ's Recommendation Regarding Wheeling Revenues .....	105
C.	Revenues from Sales of Sulfur Dioxide Emissions (SO2) Allowances .....	106
D.	Recovery of Lost Revenues Due to Theft of Electricity .....	108

**XIII. Other Issues ..... 110**

**A. What Are GSU’s Reconcilable Fuel Expenses, Revenues, and  
        Net Under-recovery? ..... 110**

**B. Calculation of Under-recovery and the Staff’s Surcharge  
        Methodology ..... 111**

        1. Removal of Theft Disallowance and Addition of OPC  
            Recommended Coal Disallowance ..... 112

        2. Miscellaneous Expense Adjustments ..... 112

        3. Docket No. 13170 Refund and Related Interest Calculation .... 112

        4. Docket No. 10894 Refund ..... 113

        5. Calculation of Surcharge ..... 114

        6. Cumulative Interest Balance ..... 116

**XIV. Finding of Fact and Conclusions of Law ..... 116**

**A. Findings of Fact ..... 116**

**B. Conclusions of Law ..... 159**

**Attachments A - Q**

**List of Acronyms**

**SOAH Docket No. 473-96-0117  
PUC Docket No. 15102**

<b><u>Acronym or Abbreviation</u></b>	<b><u>Definition of Term</u></b>
ALJ	Administrative Law Judge
ANO-1	Arkansas Nuclear One, Unit 1
ANO-2	Arkansas Nuclear One, Unit 2
bcf	billion cubic feet
BWR	Boiling Water Reactor
CAAA	Clean Air Act Amendments of 1990
CEPCO	Cajun Electric Power Cooperative, Inc.
Cities	Certain Cities served by Entergy-Gulf States
CRD	Control Rod Drive (piping)
D&D	Decontamination and Decommissioning
DER	Design Electrical Rating
DOE	United States Department of Energy
Entergy	Entergy Corporation
EO	Entergy Operations, Inc.
EOC	Entergy Operating Company
EPA	Environmental Protection Agency
ESA	Entergy System Agreement
FERC	Federal Energy Regulatory Commission
FO	Forced Outage
GC	General Counsel
GE	General Electric Company
GSU	Entergy-Gulf States Utilities Company
HL&P	Houston Lighting & Power Company
I&C	Instrumentation and Control
INPO	Institute of Nuclear Power Operators

ISB	Entergy's Intra-System Bill
KWh	Kilowatt-hours
LCRA	Lower Colorado River Authority
LER	Licensee Event Report
LIFO	Last in-First out
LPSC	Louisiana Public Service Commission
LTPIP	Long-Term Performance Improvement Plan
MHB	MHB Technical Associates, Inc.
mills/KWh	Equivalent of Dollars (\$)/MMBtu
MMBtu	Million British Thermal Units
MOV	Motor-operated valve
MSIV	Main Steam Isolation Valve
MWe	Megawatts (electric)
MWh	Megawatt-Hours
MWO	Maintenance Work Order
NISCO	Nelson Industrial Steam Company, Inc.
NOV	Notice of Violation
NRC	Nuclear Regulatory Commission
NSS	North Star Steel Company
NTPIP	Near-Term Performance Improvement Plan
O&M	Operations and Maintenance
OPC	Office of Public Utility Counsel
PO	Planned Outage
PROMOD	Computer Model for Projecting Merger-Related Fuel Savings
QF	Qualifying Facility
RBNS or River Bend	River Bend Nuclear Station
RF-5	Refueling Outage No. 5



RHR	Residual Heat Removal System
RTZ	RTZ Mineral Services
SALP	Syst. Assessment of Licensee Performance
SGDS	Spindletop Gas Distribution System (long-term natural gas contract)
SGT	Sabine Gas Transmission Company (storage)
SOAH	State Office of Administrative Hearings
SOC	Entergy System Operations Center
SO2	Sulfur Dioxide (Emissions Allowances)
SRMPA	Sam Rayburn Municipal Power Agency
SRG&T	Sam Rayburn G&T, Inc.
TIEC	Texas Industrial Energy Consumers
TRA	Texas Retail Allocator
U3O8	Uranium
UF6	Uranium Hexafluoride
Uranerz	Uranerz Exploration and Mining Company
WACOG	Weighted Average Cost of Gas

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**PUC DOCKET NO. 15102**  
**SOAH DOCKET NO. 473-96-0117**

**APPLICATION OF GULF STATES §**  
**UTILITIES COMPANY TO §**  
**RECONCILE ITS FUEL COSTS, FOR §**  
**PERMISSION TO DELAY §**  
**REQUESTING A SURCHARGE, OR IN §**  
**THE ALTERNATIVE, FOR A §**  
**SURCHARGE TO RECOVER UNDER- §**  
**RECOVERED FUEL EXPENSE §**

**PUBLIC UTILITY COMMISSION**  
**OF TEXAS**

97 JUL -7 PM 3:22  
PUBLIC UTILITY COMMISSION  
FILED CLERK

**ORDER EXTENDING TIME TO ACT ON**  
**MOTIONS FOR REHEARING**

This case involves the application of Entergy-Gulf States (EGS) to reconcile its fuel costs for the period of January 1, 1994 through June 30, 1995. The Public Utility Commission of Texas issued an Order in this case on April 1, 1997, and EGS, the Office of Public Utility Counsel, the General Counsel, and Cities have filed motions for rehearing concerning this Order. In addition, North Star Steel Texas ("North Star") filed a Motion for Rehearing and a Motion for Leave to File Motion for Rehearing Out of Time on April 30, 1997.<sup>1</sup> North Star's request to file its motion for rehearing out of time is granted.

The time to act on the motions for rehearing is extended, pursuant to Section 2001.146 of the Government Code, to June 30, 1997.

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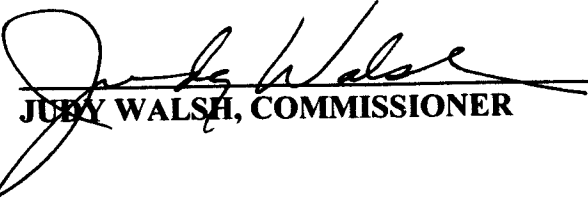
<sup>1</sup> The April 1, 1997 Order of the Commission was not mailed to counsel for North Star because a Notice of a Change in the Affiliation of Counsel and Substitution of Counsel filed with the Commission by North Star on October 21, 1996 was not properly recorded.

SIGNED AT AUSTIN, TEXAS the 7<sup>th</sup> day of May 1997.

PUBLIC UTILITY COMMISSION OF TEXAS

  
PAT WOOD, III, CHAIRMAN

  
ROBERT W. GEE, COMMISSIONER

  
JUDY WALSH, COMMISSIONER

**SOAH DOCKET NO. 473-96-0117  
PUC DOCKET NO. 15102**

**APPLICATION OF GULF STATES § BEFORE THE STATE OFFICE  
UTILITIES COMPANY TO RECONCILE §  
ITS FUEL COSTS, FOR PERMISSION § OF  
TO DELAY REQUESTING A §  
SURCHARGE, OR IN THE § ADMINISTRATIVE HEARINGS  
ALTERNATIVE, FOR A SURCHARGE §  
TO RECOVER UNDER-RECOVERED §  
FUEL EXPENSE §**

**ORDER NO. 15**

**SETTING DEADLINE FOR GSU RESPONSE TO CITIES 7-43 AND 7-45  
AND RULING ON CITIES' MOTION TO COMPEL  
ITS EIGHTEENTH AND NINETEENTH DISCOVERY REQUEST**

On March 12, 1996, the Cities filed a motion to compel Gulf States Utilities Company (GSU) to respond to its Request for Information (RFI) Nos. 19-4, 19-6, 19-8, 19-10, 19-18, and 18-1. GSU timely filed a response to the motion.

***Procedural History***

According to GSU, these RFIs seek near-critical path information, which was the subject of a previous motion to compel filed by the Cities (RFI Nos. 7-43 and 7-45). The Administrative Law Judge (ALJ) ruled on that motion in Order No. 8, issued March 5, 1996, granting Cities' motion to compel 7-43 and 7-45. The ALJ did not set a time certain for GSU to respond so that it could file a pleading indicating how much time it would need to compile the requested information. Accordingly, Order No. 8 required GSU to file a statement informing the ALJ when it could provide the response to those RFIs.

GSU timely filed the response on March 6, 1996, with an affidavit stating that it will require approximately 60 hours to perform both analyses and that, because of the current River Bend refueling outage, GSU would need until mid or late April 1996 to provide a response. The ALJ did not receive any objection or reply to this filing. GSU also filed an appeal of Order No. 8 on

March 15, 1996, however, the Commission did not vote to hear it. Pursuant to P.U.C. PROC. R. 22.123(g), the appeal of that order was deemed denied on March 26, 1996.

***Deadline for Response to Cities 7-43 and 7-45***

Based on the affidavit of Mr. Bradley E. Tate, which indicated personnel could respond to the requests by mid to late April, GSU shall file a response to the Cities' RFI Nos. 7-43 and 7-45 on or before April 29, 1996.

***Objections to Cities' 19th RFI***

Regarding the Cities' motion to compel 19-4, 19-6, 19-8, 19-10, and 19-18(a) through (p), GSU states that (1) the information is not available in a form maintained by GSU; (2) the date for responses to RFI Nos. 7-43 and 7-45 have not been set, therefore, the Cities' request is inconsistent with the intent of Order No. 8; (3) GSU cannot perform the analysis within the ordinary time period because of the magnitude of the work involved and the limited number of qualified personnel needed to perform the analysis; and (4) the near-critical path analysis sought is irrelevant to a determination of the outage activities.

The questions involve refueling outage No. 5 (RF-5), which took place on April 15, 1994 and lasted until July 6, 1994 (82 days). The planned time for the outage was 53 days. The questions seek detailed explanations for the work scope, root cause, and duration of the critical path for emergent work associated with suppression pool clean-up, and critical path or near-critical path for emergent work associated with the RHR heat exchange inspection, HPSC5 battery replacement, power line conditioner capacitor replacement, and for 16 specified major equipment improvements.

Cities responds that the information requested focuses more narrowly on specific activities. More importantly, GSU has asserted no recognizable objection under the Texas Rules of Civil

Procedure (TRCP) or under the Commission's rules.

In its reply, GSU first states that the information requested seeks 20 different near-critical path analyses. Apparently, according to GSU, these responses are tied to responses to Cities 7-43 and 7-45, for which the ALJ set a deadline to respond in the above section of this Order. Second, GSU claims that the request is wasteful and unreasonable because the Cities have not determined which particular outage activities were imprudent. GSU adds that the duration of near-critical path activity does not have any bearing whatsoever on the issue of whether a particular activity was prudent or any quantification of a disallowance. Finally, GSU argues that considerable work is required to determine near-critical path activity during an 82-day outage. It requests that it not be required to provide the information until the appeal of Order No. 8 is resolved.

The ALJ finds that the Cities' requests (19-4, 19-6, 19-8, 19-10, and 19-18(a) through (p)) are relevant or reasonably calculated to lead to the discovery of admissible evidence as required by TRCP 166b(2)(a). Taking GSU's reply arguments in order, first, the ALJ is persuaded that these responses are tied to Cities 7-43 because both concern near-critical path activity for RF-5. Therefore, GSU's objection and request for a delayed response is proper. Second, GSU's argument that the claim is wasteful and unreasonable is unsupported by legal argument. Third, the ALJ notes that GSU does not specify how long it would take for GSU to provide a response and, with the Commission's denial of GSU's appeal, the ALJ finds it reasonable to set the same deadline for a response to the Cities' 19th RFI that was set for Cities 7-43.

Accordingly, the Cities' motion to compel GSU to respond to RFI Nos. 19-4, 19-6, 19-8, 19-10, and 19-18(a) through (p) is **GRANTED**. GSU **SHALL** provide these responses on or before April 29, 1996.

*Objections to Cities 18-1*

GSU argues that the request is overly burdensome because it seeks information on every near-critical path activity during each outage. GSU claims that, in order to identify float figures<sup>1</sup> associated with near-critical path activities, it must first identify those activities. (The ALJ presumes GSU means that it must identify the near-critical path activities for every outage before it can identify days of float.) According to GSU, it cannot respond to this request until it responds to Cities 7-43, 7-45, 7-47, and 7-49.<sup>2</sup>

The RFI states:

18-1 Regarding Mr. Sellman's testimony at page 10, line 3, concerning "near-critical path activity," provide a detailed explanation that sets forth the number of days of float associated with near-critical path activities.

The Cities contend that the question could be answered in several sentences, that GSU is misinterpreting its request "to define the term he uses in testimony at page 10, line 3" and to state what days of float are in terms of near-critical path.

GSU responds by reiterating what it understands 18-1 to mean: that it seeks to know the number of days of float associated with each near-critical path activity. GSU again states that the identity of all near-critical path activities must be established before it can identify float figures. GSU contends that the Cities' request for float information is unreasonable and actually more burdensome than the Cities' earlier request for all near-critical path activities. It also argues that the amount of

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<sup>1</sup>GSU defines "float" as "the amount of time a selected activity is from becoming the critical path." The ALJ does not find the definition helpful; however, GSU offers an example. If an activity has six hours of float (with all else being equal), if that activity were to be extended more than six hours, or if the critical path activity were to finish more than six hours early, then the activity would become critical path. GSU Response at 10.

<sup>2</sup>As ordered above, GSU is required to respond to 7-43 and 7-45 by April 29, 1996. It is the ALJ's understanding that GSU is responding or has responded to Cities 7-47 and 7-49 per the agreement of the parties.

float of any given near-critical path activity does not indicate what the true outage extension is for that critical path activity.

From the Cities' motion and GSU's response, it appears that the parties have been unable to resolve whether the Cities is asking for a definition of the number of days of float or for the actual number of days of float. GSU presumes the latter although it argues that this request is burdensome. Yet GSU fails to give the ALJ any factual data showing how burdensome a response will be, other than the response is also tied to the work that will be undertaken on Cities 7-43 and 7-45. For instance, GSU does not state how many critical path activities are involved or how difficult and time consuming it will be to calculate the days of float. For either interpretation, the ALJ finds that the Cities 18-1 is relevant or reasonably calculated to lead to the discovery of admissible evidence. The ALJ finds that information about near-critical path activity may lead to evidence relevant to quantification of any harm resulting from an imprudent outage.

Therefore, Cities' motion to compel GSU to respond to 18-1 is **GRANTED**. On or before April 19, 1996, GSU is instructed to provide a response to the Cities defining what "days of float" means in terms of near-critical path. If the Cities seeks a determination of the actual number of days of float, it shall immediately notify GSU and GSU shall provide such a response to the Cities on or before May 3, 1996.

SIGNED AT AUSTIN, TEXAS the 17<sup>th</sup> day of April 1996.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

  
\_\_\_\_\_  
LILLO D. POMERLEAU  
ADMINISTRATIVE LAW JUDGE



APPLICATION OF GULF STATES  
UTILITIES COMPANY TO REVISE ITS  
FIXED FUEL FACTORS

§  
§  
§  
§  
§

BEFORE  
THE STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

ORDER NO. 4

SOAH DOCKET NO. 473-96-0117  
PUC DOCKET NO. 15102

APPLICATION OF GULF STATES  
UTILITIES COMPANY TO  
RECONCILE ITS FUEL COSTS, FOR  
PERMISSION TO DELAY  
REQUESTING A SURCHARGE, OR IN  
THE ALTERNATIVE, FOR A  
SURCHARGE TO RECOVER UNDER-  
RECOVERED FUEL EXPENSE

§  
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BEFORE  
THE STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

ORDER NO. 13

GRANTING MOTION TO INTERVENE,  
DENYING MOTION FOR RECONSIDERATION OF ORDER NO. 3,  
ADOPTING ORDER NO. 3 IN DOCKET NO. 15102, AND REQUIRING  
HAND-DELIVERY OF TESTIMONY

I. Granting Motion to Intervene

On April 5, 1996, the City of Port Neches (Port Neches) filed a motion to intervene, alleging standing under §24 of the Public Utility Regulatory Act (PURA). Port Neches' motion to intervene is hereby **GRANTED**. Port Neches should take note that its reference to §24 of PURA is a reference to the *former* PURA, now repealed. Former §24, as it refers to electric utilities, is now §2.106 of the Public Utility Regulatory Act of 1995, Art. 1446c-0 (Vernon Supp. 1996) (hereinafter PURA95). In the future, the City of Port Neches, as well as all other parties to this docket, **SHALL** cite to PURA95, unless a specific reference to a former PURA provision is necessary.

## II. Denying Motion For Reconsideration of Order No. 3

Along with its motion to intervene, Port Neches also filed a motion for reconsideration of Order No. 3 denying the Office of Public Utility Counsel's (OPC) motion to consolidate this docket with Gulf States Utilities Company's (GSU) fuel reconciliation proceeding, SOAH Docket No. 473-96-0117/ PUC Docket No. 15102 (hereinafter Docket No. 15102). In its motion for reconsideration, Port Neches reurges OPC's original position that the two dockets should be heard together.

Port Neches argues that the two dockets should be consolidated for the following reasons: (1) GSU's current fuel factor was set as part of its settlement in Docket No. 12712, the docket approving its merger with Entergy and based on GSU's prediction of significant fuel savings; (2) in Docket No. 15102, GSU claims a \$22 million *underrecovery* in fuel costs, but has requested to *not* surcharge for the underrecovery; and that, consequently (3) GSU owes the Commission and its ratepayers a full explanation of why fuel costs have *increased* since the merger, instead of decreased as predicted.

However legitimate the concerns of Port Neches, those concerns may be adequately addressed in separate proceedings and do not compel an exception to the procedures required by P.U.C. SUBST. R. 23.23(B)(2) or a reconsideration of Order No. 3. Accordingly, Port Neches' motion for reconsideration of Order No. 3 is **DENIED**.

## III. Adopting Order No. 3 in Docket No. 15102

OPC's motion to consolidate was properly filed in both of the above-styled and numbered dockets. However, the order denying the motion to consolidate (Order No. 3) was filed only in Docket No. 15489, and not in Docket No. 15102. To clarify, the undersigned Administrative Law Judge (ALJ) assigned to Docket No. 15102 **ADOPTS** that portion of Order No. 3 that denies OPC's motion to consolidate, for the reasons stated therein. Accordingly, the above ruling on Port Neches' motion to reconsider applies to both dockets.

#### IV. Hand-delivery of Testimony

Because of the accelerated nature of this proceeding, it is necessary for the ALJ in Docket No. 15489 to receive copies of testimony as soon as possible after filing. Consequently, all intervenors filing testimony on April 12, 1996 **SHALL** hand-deliver a copy of the testimony on the day of filing to the docket clerk at the offices of the State Office Of Administrative Hearings (SOAH). General Counsel **SHALL** use its best efforts to accomplish the same on April 18, 1996.

#### V. Reassignment of Docket No. 15489

The parties should take note that Docket No. 15489 has been reassigned from ALJ Kathleen Sanford to ALJ Eva Andries.

SIGNED AT AUSTIN, TEXAS the 9<sup>th</sup> day of April, 1996.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

  
\_\_\_\_\_  
EVA KING ANDRIES  
ADMINISTRATIVE LAW JUDGE

  
\_\_\_\_\_  
LILO D. POMERLEAU  
ADMINISTRATIVE LAW JUDGE