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Suzi Ray McClellan
Public Counsel

May 12, 2004

Honorable Judge Lilo D. Pomerleau
Honorable Judge Thomas H. Walston
Administrative Law Judges
State Office of Administrative Hearings
300 W. 15th Street, Room 502
Austin, Texas 78701
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Re: *Application of Texas-New Mexico Company, First Choice Power, Inc., and Texas Generating Company, L.P. to Finalize Stranded Costs under PURA § 39.262.*
SOAH Docket No. 473-04-2459
PUC Docket No. 29206

Honorable Judges Pomerleau and Walston,

In your letter of May 10, 2004, you request information regarding whether the Clear Lake settlement amount of \$7,566,231 was amortized and charged against excess earnings for the years 2000 and 2001. The amortization was ordered by the Commission in Docket No. 18078 in its final order issued August 27, 1999. TNMP explains that it stopped amortizing the settlement amount after it discontinued SFAS No. 71 in December 1999.¹ TNMP argues to have continued with amortization would have violated generally accepted accounting principles.

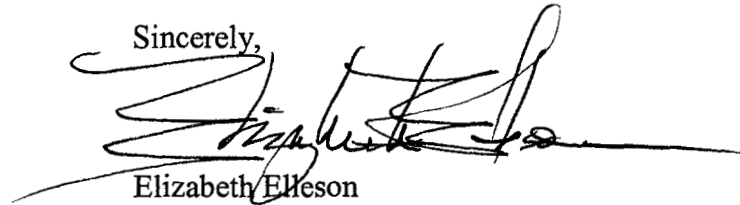
It must be noted that SFAS 71 governs financial reporting requirements for published financial statements. It does not implicate reporting requirements for earnings monitoring reports established by statute and the Commission. The two reports are distinct with separate purposes. For the Commission's regulatory aims, it means use of a final annual report for purposes of establishing a competition transition charge and as part of the true-up proceeding. PURA §39.261(c)(1) and (2). As an example, the Commission's order in Docket No. 21313 issued May 3, 2000 to amortize the HL&P settlement despite the discontinuance of SFAS 71 illustrates the nature of the earnings report as a tool to meet the statutory mandates. Changes by the financial accounting standards board do not preempt statute and Commission orders.

¹TNMP Exhibit 24, Rebuttal Testimony of Scott Forbes, at 5, lines 14-22, and 6, lines 28-29.

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That TNMP chose not to amortize the settlement amount despite the Commission order results in waiver of \$2,332,745 of amortization as a claimed deferred debit and should be disallowed.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Elleson", written over a horizontal line.

Elizabeth Elleson

SBN 14865575

Assistant Public Counsel

Cc: Parties of record