

DOCKET NOS. 6477, 6525, 6660 and 6748

RECEIVED

1986 APR 30 PM 3:29

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

APPEALS OF GULF STATES UTILITIES  
COMPANY FROM RATE PROCEEDINGS OF THE  
CITIES OF PORT NECHES, ET AL.

APPEALS OF GULF STATES UTILITIES  
COMPANY FROM THE RATE PROCEEDING  
OF THE CITY OF ORANGE, ET AL.

ORDER

In public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas considered motions for rehearing of the Order it rendered in these dockets on April 4, 1986, ruling on Gulf States Utilities Company's request for reduction of its fuel factor and refund of fuel cost overrecoveries, and finds that such motions do not state grounds meriting revision of such Order. The Commission issues the following Order:

1. The motions for rehearing filed by the Texas State Agencies and the Texas State Treasurer concerning the Commission's April 4, 1986 Order in these dockets are in all respects DENIED for lack of merit.
2. This Order is effective on the date of signing.

SIGNED AT AUSTIN, TEXAS on this the 30<sup>th</sup> day of April 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED:

Peggy Rosson  
PEGGY ROSSON

SIGNED:

Dennis L. Thomas  
DENNIS L. THOMAS

SIGNED:

Jo Campbell  
JO CAMPBELL

ATTEST:

Rhonda Colbert Ryan  
RHONDA COLBERT RYAN  
SECRETARY OF THE COMMISSION

nsh

DOCKET NOS. 6477, 6525 and 6660

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

APPEALS OF GULF STATES UTILITIES  
COMPANY FROM RATE PROCEEDINGS OF  
THE CITIES OF PORT NECHES, ET AL.

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PUBLIC UTILITY COMMISSION  
OF TEXAS

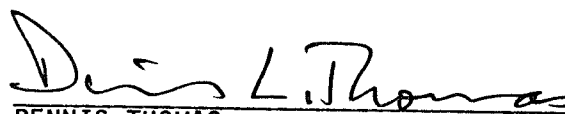
ORDER

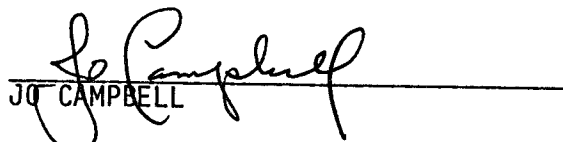
On March 27, 1986, various cities filed an appeal of examiners' order numbers 29, consolidating Docket No. 6660 with Docket Nos. 6477 and 6525, and 30, denying the cities' motion to reconsider order number 29. The Commission considered this appeal at the final order meeting of April 9, 1986. In order to allow the cities and Gulf States Utilities Company an opportunity to reach a negotiated resolution of the subject of this appeal, pursuant to P.U.C. PROC. R. 21.106(a), the time for ruling on this appeal is hereby EXTENDED from April 11, 1986 until May 5, 1986. This appeal will be considered at the next Commission final order meeting, which is scheduled to convene on Wednesday, April 30, 1986.

SIGNED AT AUSTIN, TEXAS, on this the 16<sup>th</sup> day of April 1986.


PUBLIC UTILITY COMMISSION OF TEXAS

  
PEGGY ROSSON

  
DENNIS THOMAS

  
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY TO THE COMMISSION

bdb

DOCKET NOS. 6477, 6525, AND 6660

INQUIRY OF THE PUBLIC UTILITY	<	PUBLIC UTILITY COMMISSION
COMMISSION OF TEXAS CONCERNING THE	<	
FIXED FUEL FACTOR OF GULF STATES	<	
UTILITIES COMPANY	<	OF TEXAS
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APPLICATION OF GULF STATES UTILITIES	<	
COMPANY FOR AUTHORITY TO CHANGE RATES	<	
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APPEALS OF GULF STATES UTILITIES	<	
COMPANY FROM RATE PROCEEDINGS OF	<	
THE CITIES OF PORT NECHES EL AL.	<	

ORDER

In open meeting at its offices in Austin, Texas, on April 3, 1986, the Public Utility Commission of Texas (Commission) met to consider the petition filed by Gulf States Utilities Company (GSU) on February 28, 1986 in Docket Nos. 6477, 6525, and 6660, to establish an interim fuel factor and refund cost over-recoveries. The Commission hereby issues the following Order:

1. Pursuant to P.U.C. SUBST. R. 23.23, adopted on an emergency basis on February 21, 1986, the Commission considered only the petition filed by GSU, as amended, and the staff memorandum filed April 2, 1986, reviewing that petition.
2. Based on the petition and the staff memorandum, the Commission APPROVES the interim fuel factor and refund methods proposed in the petition and the refund amount as modified to include over-recoveries occurring during February 1986 and interest on the over-recovery through March 1986.
3. The system fuel factor of 2.477 cents per kilowatthour and the refund amount of \$18,756,291 are APPROVED.
4. The interim fuel factor and refund SHALL be instituted with GSU's April billing cycle as requested.
5. It is further ORDERED that discovery and opportunity for hearing on whether the over-recovery amounts, interest calculation, and refund method proposed by GSU comply with P.U.C. SUBST. R. 23.23 will occur in the fuel reconciliation phase of Docket Nos. 6477, 6525, and 6660.

The Commission further ADOPTS the following Findings of Fact and Conclusions of Law.

A. Findings of Fact

1. On February 28, 1986, GSU filed a petition to establish an interim fuel factor and refund fuel cost over-recoveries in Docket Nos. 6477,

6525, and 6660, pursuant to P.U.C. SUBST. R. 23.23 as adopted on an emergency basis on February 21, 1986.

2. GSU subsequently amended its petition to incorporate refunds of over-recoveries for the October 1985 through February 1986 period and to include interest on the overrecoveries through March 1986, producing a total refund amount of \$18,756,291.
3. GSU's proposed system interim fuel factor is 2.477 cents per kilowatthour.
4. The proposed interim fuel factor is based on actual costs incurred in January 1986.
5. A review of January 1986 cost and performance data indicates that the data from that period provides a practical and representative estimate of GSU's fuel costs until Docket No's. 6477, 6525, and 6660 are completed. This finding is expressly made subject to discovery and hearing in the fuel reconciliation portion of Docket No's. 6477, 6525, and 6660.
6. Based on Findings of Fact No's. 4 and 5, a system interim fuel factor of 2.477 cents per kilowatthour is reasonable. This finding is expressly made subject to discovery and hearing in the fuel reconciliation portion of Docket No's. 6477, 6525, and 6660.
7. The over-recovery amounts, interest calculations and refund method proposed by GSU are accurate and in compliance with P.U.C. SUBST. R. 23.23(b)(2)(F), (G), and (H). This finding is expressly made subject to discovery and hearing in the fuel reconciliation portion of Docket No's. 6477, 6525, and 6660.
8. In order to timely pass to the consumers of GSU the benefits of reduced fuel prices, it is appropriate to institute the interim fuel factor contained in Finding of Fact No. 6 and the total over-recovery amount and interest contained in Finding of Fact No. 2, using GSU's proposed refund methodology, in the April billing cycle.

#### B. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Sections 16(a) and 43(g) of the Public Utility Regulatory Act (PURA), Tex. Rev. Civ. Stat. Ann. art. 1446c (Vernon Supp. 1986), and P.U.C. SUBST. R. 23.23.

2. P.U.C. SUBST. R. 23.23 provides for expedited review of fuel cost over-recoveries and fuel factor reductions so that the utility's customers can receive the benefits of reduced fuel costs as rapidly as possible. Therefore, the rule contemplates reductions of fuel factors and refunds of over-recoveries without hearing, based on the utility's filing, staff review, and Commission order; provided that discovery and hearing will be allowed at the time of fuel reconciliation.
3. Based on Findings of Fact No's. 5, 6, and 7, GSU's petition to establish an interim fuel factor and refund fuel cost over-recoveries filed on February 28, 1986, as amended to include over-recoveries for the October 1985 through February 1986 period and to include interest on the over-recoveries through March 1986 is in compliance with P.U.C. SUBST. R. 23.23. This conclusion is expressly made subject to discovery and hearing in the fuel reconciliation portion of Docket No's. 6477, 6525, and 6660.
4. Based on Finding of Fact No. 8 and Conclusion of Law No. 2, the interim fuel factor, over-recovery amount and interest shall be reflected in the April billing cycle, using the methodology proposed by GSU.

SIGNED AT AUSTIN, TEXAS on this the 4<sup>th</sup> day of April 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: 

PEGGY ROSSON

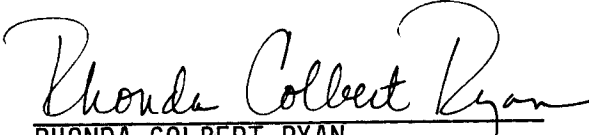
SIGNED: 

DENNIS L. THOMAS

SIGNED: 

JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY OF THE COMMISSION

DOCKET NOS. 6477 and 6525

1986 FEB -7 PM 1:28

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

PUBLIC UTILITY COMMISSION  
OF TEXAS

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

ORDER

In a public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that, after statutory notice was provided to the public and interested persons, the Commission considered an extension of the temporary protective order entered in this case respecting the Burlington Northern Railroad documents, the confidentiality of which was considered by the Commission at a February 6, 1986, public meeting in connection with an appeal of examiner's orders by Gulf States Utilities Company. With respect to the Burlington Northern Railroad documents, the temporary protective order is EXTENDED from noon on Friday, February 7, 1986, until noon on Monday, February 10, 1986.

SIGNED AT AUSTIN, TEXAS on this the 7<sup>th</sup> day of February 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED:   
PEGGY ROSSON

SIGNED: \_\_\_\_\_  
DENNIS L. THOMAS

SIGNED:   
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY OF THE COMMISSION

nsh

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INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

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PUBLIC UTILITY COMMISSION  
OF TEXAS

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

ORDER

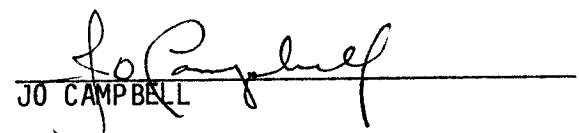
In a public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that, after statutory notice was provided to the public and interested persons, the Commission considered appeals by Gulf States Utilities Company (GSU) of those portions of examiner's order number 18, of the amendment of that order discussed in order number 20, and of order number 22, which hold that documents claimed by GSU to be confidential should not be covered by a protective order. These appeals are hereby DENIED for lack of merit. The Commission specifically finds that GSU has not shown that its costs or rates will increase if the documents are disclosed to the public.

SIGNED AT AUSTIN, TEXAS, on this the 6<sup>th</sup> day of February 1986.


PUBLIC UTILITY COMMISSION OF TEXAS

  
PEGGY ROSSON

  
DENNIS THOMAS

  
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY TO THE COMMISSION

bdb

1986 JAN 30 PM 1:07

PUBLIC UTILITY COMMISSION  
OF TEXASINQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANYAPPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

## ORDER


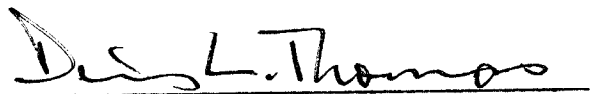
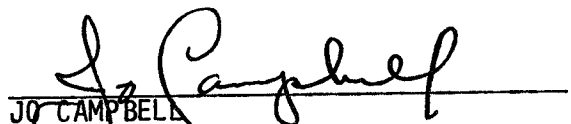
In a public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that, after statutory notice was provided to the public and interested persons, the Commission considered an appeal by Gulf States Utilities Company of examiner's order number 18 as amended by the examiner. The Commission will delay ruling on the merits of this appeal until the open meeting scheduled for Thursday, February 6, 1986. However, it is hereby ORDERED that the last sentence of Order No. 18 is amended to provide as follows:

Until and unless provided otherwise by order of the Commission, such documents SHALL be subject to the Protective Order only until noon on Friday, February 7, 1986, after which disclosure to the public SHALL be permitted.

This amendment is made so that GSU's appeal does not become moot before a Commission decision on it is obtained.

SIGNED AT AUSTIN, TEXAS, on this the 29<sup>th</sup> day of January 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

  
PEGGY ROSSON  
DENNIS THOMAS  
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY TO THE COMMISSION

bdb



DOCKET NOS. 6477 AND 6525

RECEIVED

1986 JAN -9 AM 9:16

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

PUBLIC UTILITY COMMISSION

OF TEXAS

APPLICATION OF GULF STATES  
UTILITIES COMPANY FOR AUTHORITY  
TO CHANGE RATES

ORDER

In public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas considered motions for rehearing of the Order it rendered in these dockets on December 2, 1985, ruling on the Office of Public Utility Counsel's (OPC) Motion to Dismiss, and finds that such motions do not state grounds meriting revision of such Order. The Commission issues the following Order:

1. The motions for rehearing filed by Gulf States Utilities Company and OPC concerning the Commission's December 2, 1985, Order in these dockets are in all respects DENIED for lack of merit.
2. This Order is effective on the date of signing.

SIGNED AT AUSTIN, TEXAS on this the 8<sup>th</sup> day of January 1986.

PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED:

Peggy Rosson  
PEGGY ROSSON

SIGNED:

Dennis L. Thomas  
DENNIS L. THOMAS

SIGNED:

Jo Campbell  
JO CAMPBELL

ATTEST:

Rhonda Colbert Ryan  
RHONDA COLBERT RYAN  
SECRETARY OF THE COMMISSION

DOCKET NOS. 6477 and 6525

RECEIVED

1986 JAN -9 PM 2:41

PUBLIC UTILITY COMMISSION  
OF TEXAS

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY


APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

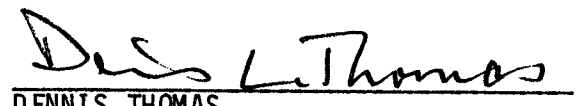
ORDER

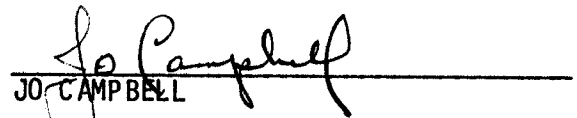
In a public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that, after statutory notice was provided to the public and interested persons, the Commission considered an appeal by various cities of that portion of the examiner's order number 14 which adopted a protective order in this docket. This appeal is hereby GRANTED, and the protective order is hereby DISSOLVED.

SIGNED AT AUSTIN, TEXAS, on this the 9<sup>th</sup> day of January 1986.

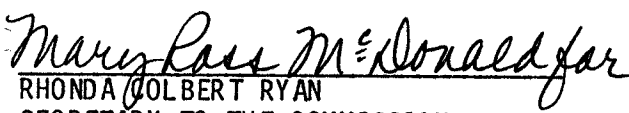
PUBLIC UTILITY COMMISSION OF TEXAS

  
PEGGY ROSSON

  
DENNIS THOMAS

  
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY TO THE COMMISSION

bdb

RECEIVED

DOCKET NOS. 6477 and 6525

1986 JAN -6 AM 11:05

PUBLIC UTILITY COMMISSION  
OF TEXAS

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

ORDER

On December 20, 1985, various cities filed an appeal of the examiner's order number 14 adopting a proposed protective order in this docket. This appeal will be considered at the next Commission final order meeting, which is scheduled to convene on Wednesday, January 8, 1986. Pursuant to P.U.C. PROC. R. 21.106(a), the time for ruling on this appeal is hereby EXTENDED from January 6, 1986 until January 10, 1986.

SIGNED AT AUSTIN, TEXAS on this the 3rd day of January 1986  
PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED: Peggy Rosson  
PEGGY ROSSON

SIGNED: Dennis L. Thomas  
DENNIS L. THOMAS

SIGNED: Jo Campbell  
JO CAMPBELL

ATTEST:

Rhonda Colbert Ryan  
RHONDA COLBERT RYAN  
DIRECTOR OF HEARINGS

nsh

DEC -2 11:39

DOCKET NOS. 6477 and 6525

PUBLIC UTILITY COMMISSION  
FILING CLERK

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

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PUBLIC UTILITY COMMISSION

OF TEXAS

#### ORDER

In public meeting at its offices in Austin, Texas, the Public Utility Commission of Texas finds that in accordance with applicable statutes an administrative law judge prepared and filed a Proposal for Decision respecting a motion to dismiss containing Findings of Fact and Conclusions of Law, which Proposal for Decision is ADOPTED with the following modifications, and made a part hereof.

- a. The discussion contained in Section II. B. of the Proposal for Decision is not adopted.
- b. Finding of Fact Nos. 6 through 8 and Conclusion of Law No. 4 are not adopted.

The Commission further issues the following Order:

1. Official notice is taken of the current Commission-prescribed rate filing package form for Class A and B electric utilities.
2. The Primary Filing portion of the application cited above is DISMISSED.
3. Except as expressly granted herein the Office of Public Utility Counsel's motion to dismiss is DENIED.

/ -continued-

4. This order is effective on the date of signing.

SIGNED AT AUSTIN, TEXAS on this the 2<sup>nd</sup> day of December 1985.


PUBLIC UTILITY COMMISSION OF TEXAS

SIGNED:   
PEGGY ROSSON

SIGNED:   
DENNIS L. THOMAS

SIGNED:   
JO CAMPBELL

ATTEST:

  
RHONDA COLBERT RYAN  
SECRETARY OF THE COMMISSION

tv

Public Utility Commission of Texas



FILED  
1986 JUN 24 PM 1:49  
FBI - AUSTIN

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Memorandum

TO: Chairman Rosson  
Commissioner Thomas  
Commissioner Campbell  
All Parties of Record  
General Counsel

FROM: Elizabeth Drews *Elizabeth Drews*

DATE: June 24, 1986

SUBJECT: Proposal for Decision - Docket Nos. 6477, 6525, 6660, 6748 and 6842 - GSU

On Friday I issued in these dockets a Proposal for Decision Concerning Parties' Stipulation of Majority of Issues in Case, which you are scheduled to consider on Wednesday, June 25, 1986. There are two minor errors in the Proposal for Decision which should be corrected. First, a sentence was deleted from page 15 which explains what "CEPCO" stands for and the extent of that entity's ownership in River Bend. Second, on line 3 of page 19, "April 19, 1987" should read "April 1987". I do not expect anyone to object to these changes. Attached are revised pages. I apologize for any inconvenience these amendments might cause.

bdb

### III. Description of the Company

GSU was incorporated under the laws of the State of Texas in 1925. It is headquartered in Beaumont, Texas.

GSU is an investor-owned electric utility engaged principally in generating electric energy and transmitting, distributing and retailing such energy. It provides electric utility service in a 28,000 square mile area in Southeastern Texas and South Central Louisiana which extends a distance of over 350 miles, from a point east of Baton Rouge, Louisiana, to about 50 miles east of Austin, Texas. GSU's service area includes the northern suburbs of Houston and such large cities as Conroe, Huntsville, Port Arthur, Orange and Beaumont, Texas, and Lake Charles and Baton Rouge, Louisiana. GSU also sells electricity to municipalities and rural electric cooperatives in both Texas and Louisiana. GSU provides electric utility service to more than 500,000 customers. During the test year, which ended March 31, 1985, GSU served approximately 275,260 Texas retail customers. During the test year, 51 percent of GSU's electric operating revenues was derived from within Louisiana, and 49 percent from within Texas.

GSU's only proposed generating unit actively under construction is River Bend Unit 1, a 940 megawatt (mw) boiling water nuclear unit being constructed near St. Francisville, Louisiana. GSU currently expects River Bend to be placed in service in June 1986. GSU has an installed capacity of 6692 mw, including its 70 percent ownership of River Bend. (Cajun Electric Power Cooperative (CEPCO) owns the other 30 percent.) Of this total, 5429 mw is gas-fired, 605 mw is western coal-fired and 658 mw represents GSU's share of River Bend. During the recent past, approximately 60 percent of GSU's system generation was provided by its gas-fired units, 15 percent by its western coal-fired units and 25 percent primarily by purchased power.

GSU's transmission system consists of a backbone 500 kilovolt (kv) system across South Louisiana into East Texas, with an underlying network of 230 and 138 kv lines. There is also a 345 kv system in the westernmost portion of GSU's service area. GSU is a member of the Southwest Power Pool.

In addition to its electric utility business, GSU produces and sells steam for industrial use, and it purchases and retails natural gas in the Baton Rouge, Louisiana, area. During the test year, 92 percent of GSU's operating revenue was derived from the electric utility business, 5 percent from the steam business and 3 percent from the gas business. The gas and steam products businesses are conducted entirely in Louisiana.

GSU has three wholly-owned subsidiaries: Prudential, Varibus and Finance. Prudential is engaged primarily in exploration, development and operation of oil and gas properties. Varibus operates intrastate gas pipelines in Louisiana primarily to serve GSU's generating stations. Varibus also holds lignite deposits in East Texas for possible use by GSU or sale to others. Finance is

ratepayers from then until April 1987 would be only \$30 million. (The examiner doubts that a final order in a GSU filed plant in service case will be in effect as early as April 1987. Even if GSU can file its plant in service case in October 1986, absent a settlement, the hearing in that case is likely to be lengthy. However, while this would affect the numbers, it would not affect the outcome of this part of Dr. Divine's analysis.)

B. Article III: Refunds to Customers in Certain Cities

Under Article III of the Stipulation, GSU would refund to its customers in sixteen cities the amount of base rates collected in each such city since a specified date which exceeded the base rate amount that would have been collected under the Stipulation. The sixteen cities are the fifteen cities whose rate reduction ordinances were the subject of GSU's appeals in Docket Nos. 6660, 6748 and 6842, as well as the City of West Orange. For the fifteen cities, the specified beginning dates for the refund period are the dates GSU and each city agreed to in their stipulations in Docket Nos. 6660, 6748 and 6842. Regarding West Orange, GSU witness William J. Jefferson testified:

One City, the City of West Orange, adopted a Resolution regarding reduced rates instead of enacting an ordinance. Since that Resolution does not indicate any tariff filing date or any effective date, the Company has agreed, for settlement purposes only, to a date determined in essentially the same manner as the others. That method was to allow ten days, from the date an ordinance was adopted, for the tariff filing specified in the ordinance and then to assume, as some ordinances specified, that the lower rates would go into effect on the first day of the next monthly billing cycle.

The total amount to be refunded through May 31, 1986, in the sixteen cities is estimated to be \$5,273,000. The cities would have the right to review the accuracy of GSU's calculations, confer with GSU personnel, and if necessary have a hearing concerning the amount of the refund. The refunds would be through a one-time bill credit based on historical usage during the refund period for each customer taking service at the time of the refund.

The State Agencies had asked GSU to estimate the unclaimed amount of the refunds which would be provided pursuant to Article III of the Stipulation. Mr. Jefferson testified that in light of the Article III refund methodology, there will be no unclaimed amounts. However, he noted that customers have left, or moved within, the GSU system during the relevant period. If this had not been true, those customers would have received refunds of approximately \$337,000.

C. Article IV: Fuel

The Stipulation resolves some rate case issues pertaining to GSU's fuel costs, and defers others either until the fuel reconciliation hearing to be held





# Public Utility Commission of Texas

7800 Shoal Creek Boulevard · Suite 400N  
Austin, Texas 78757 · 512/458-0100

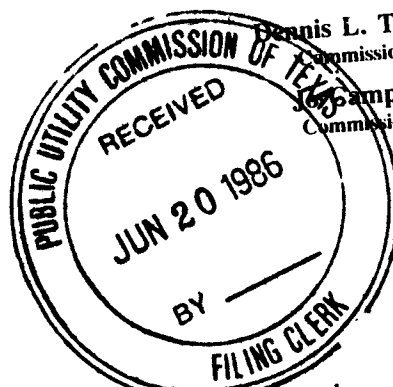
Chairman

Dennis L. Thomas

Commissioner

James Campbell  
Commissioner

June 20, 1986



TO ALL PARTIES OF RECORD

RE: Consolidated Docket Nos. 6477, 6525, 6660, 6748 and 6842 -- Inquiry of the Public Utility Commission of Texas Concerning the Fixed Fuel Factor of Gulf States Utilities Company, Application of Gulf States Utilities Company for Authority to Change Rates, Appeals of Gulf States Utilities Company from Rate Proceedings of the Cities of Port Neches, et al., Appeals of Gulf States Utilities Company from the Rate Proceeding of the City of Orange, et al., and Appeal of Gulf States Utilities Company from the Ratemaking Proceedings of the City of Lumberton.

Dear Sir or Madam:

Enclosed is a copy of my Proposal for Decision Concerning Parties' Stipulation of Majority of Issues in Case and the proposed Order concerning this stipulation (the Stipulation) in the above referenced dockets. This Proposal for Decision will be considered by the Commission at an open meeting scheduled to begin at 9:00 a.m. on Wednesday, June 25, 1986, at the Commission offices, at 7800 Shoal Creek Boulevard, Austin, Texas. Exceptions, if any, to the Proposal For Decision must be filed in writing by 4:00 p.m. on Tuesday, June 24, 1986. An original and ten (10) copies must be filed with the Commission Filing Clerk, and a copy must be served upon the Commission General Counsel and every other party of record.

Your presence at the Final Order Meeting is not required, but you are welcome to attend if you want to. A copy of the signed Order will be mailed to you shortly after the Final Order Meeting.

A copy of the Stipulation is attached as Appendix A to the file and Commissioners' copies of this Proposal for Decision. Since it is voluminous and the parties have copies of the Stipulation, Appendix A has been omitted from the parties' copies of the Proposal for Decision. If any party needs a copy of the signed Stipulation please let me know.

If you have questions or comments, please feel free to contact me at (512) 458-0264.

## Summary of Proposal for Decision

On October 1, 1985, Gulf States Utilities Company (GSU) filed an application for a rate increase. This application was assigned Docket No. 6525 and later was consolidated with a Commission inquiry concerning GSU's fuel factor and with a number of appeals by GSU from various actions concerning its rates taken by cities acting as local regulatory authorities.

CONSOLIDATED DOCKET NOS. 6477, 6525, 6660, 6748 and 6842

INQUIRY OF THE PUBLIC UTILITY COMMISSION OF TEXAS CONCERNING THE FIXED FUEL FACTOR OF GULF STATES UTILITIES COMPANY		PUBLIC UTILITY COMMISSION  OF TEXAS
APPLICATION OF GULF STATES UTILITIES COMPANY FOR AUTHORITY TO CHANGE RATES		
APPEALS OF GULF STATES UTILITIES COMPANY FROM RATE PROCEEDINGS OF THE CITIES OF PORT NECHES, ET AL.		
APPEALS OF GULF STATES UTILITIES COMPANY FROM THE RATE PROCEEDING OF THE CITY OF ORANGE, ET AL.		
APPEAL OF GULF STATES UTILITIES COMPANY FROM THE RATEMAKING PROCEEDINGS OF THE CITY OF LUMBERTON		

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CONSOLIDATED DOCKET NOS. 6477, 6525, 6660, 6748 and 6842

INQUIRY OF THE PUBLIC UTILITY  
COMMISSION OF TEXAS CONCERNING THE  
FIXED FUEL FACTOR OF GULF STATES  
UTILITIES COMPANY

PUBLIC UTILITY COMMISSION  
OF TEXAS

APPLICATION OF GULF STATES UTILITIES  
COMPANY FOR AUTHORITY TO CHANGE RATES

APPEALS OF GULF STATES UTILITIES  
COMPANY FROM RATE PROCEEDINGS OF  
THE CITIES OF PORT NECHES, ET AL.

APPEALS OF GULF STATES UTILITIES  
COMPANY FROM THE RATE PROCEEDING  
OF THE CITY OF ORANGE, ET AL.

APPEAL OF GULF STATES UTILITIES  
COMPANY FROM THE RATEMAKING  
PROCEEDINGS OF THE CITY OF  
LUMBERTON

PROPOSAL FOR DECISION CONCERNING PARTIES' STIPULATION OF MAJORITY  
OF ISSUES IN CASE

In this Proposal for Decision Concerning Parties' Stipulation of Majority of Issues in Case (Proposal for Decision), the examiner recommends approval of an agreement of the parties (the Stipulation) which, if adopted, would resolve nearly all issues in the case. The issues still in dispute, relating to the Southern Companies purchased power contracts and fuel reconciliation, are extremely important. The taking of evidence concerning these two unstipulated issues will resume on June 30, 1986.

The discussion consists of three main parts: Procedural History, Summary of the Stipulation Provisions and Supporting Testimony and Examiner's Recommendations. The procedural history of the case so far has been included in this Proposal for Decision, for two reasons. One is that, if adopted, the Stipulation would resolve most issues in the case, while the Examiner's Report would address only two. The other is that evidence filed to support the Stipulation suggests that the events which have occurred in this docket have significantly influenced the terms of, and constitute part of the reason for approving, the Stipulation. The entire Stipulation is attached as Appendix A to this Proposal for Decision. The Stipulation also is summarized in connection with the testimony supporting each provision.

I. Procedural History

From both a substantive and a procedural point of view, this case has been extraordinarily complex. The procedural history may be characterized as a tangled skein of threads representing more or less concurrent timelines on which numerous unrelated procedural disputes were argued and resolved. Because of this, this procedural history has been organized to some extent by subject matter, rather than simply being a chronological listing of events. Also, parts

of it are presented in tabular form in appendices to the Proposal for Decision. No effort has been made to describe every motion, appeal or order. Persons interested in a more detailed discussion of the procedural disputes should review the Commission's and examiner's orders previously issued in these cases. A chronological list of examiner's orders and Commission action concerning any appeals from such orders, organized by docket number, is attached as Appendix B.

A. Docket No. 6477 and Fuel Factor Reductions and Refunds

Docket No. 6477 arose out of a previous inquiry by the Commission's general counsel which had sought a reduction of the fuel factor of, and refund of fuel cost overrecoveries by, Gulf States Utilities Company (GSU). That inquiry, Docket No. 6376, was essentially resolved by agreement of the parties. Pursuant to the agreement, GSU's fixed fuel factor was reduced, and a refund of \$20,566,386 of overrecovered fuel costs and interest for the period of February 1984 through July 1985, was required. The Commission approved the agreement in a final Order signed on August 29, 1985. That Order provides in part:

4. Issues relating to whether or not the fuel factor established in this docket needs to be further reduced are severed from this docket. A new docket shall be established for the purpose of evaluating this question.

The new docket established pursuant to the final Order in Docket No. 6376 was Docket No. 6477.

In an examiner's order dated September 17, 1985, a prehearing conference in Docket No. 6477 was scheduled for October 7, 1985. On October 1, 1985, GSU filed its rate case, which was assigned Docket No. 6525. Examiner's Order No. 1, dated October 2, 1985, put the parties on notice that consolidation of Docket Nos. 6477 and 6525 would be considered at the October 7, 1985 prehearing conference. On October 2, 1985, the Cities of Port Arthur, Groves, Port Neches and Nederland filed a motion to dismiss Docket No. 6477 for want of jurisdiction, arguing that municipalities have exclusive original jurisdiction over electric utility rates within their city limits. This motion to dismiss was denied in examiner's Order No. 3, dated October 16, 1985. In the same Order, Docket Nos. 6477 and 6525 were consolidated.

On October 16, 1985, GSU filed a motion for a second reduction in its fuel factor and refund of fuel cost overrecoveries. After other matters were attended to, the October 21, 1985, first prehearing conference in the rate case was recessed until October 29, 1985, to allow the parties to negotiate concerning GSU's motion. When the prehearing conference reconvened, the parties announced that they had reached agreement on all issues but one. The disputed issue concerned whether the Commission lawfully could order that proceeds from refund checks for customers who cannot be located must be distributed to GSU's

program for helping indigent customers pay their utility bills, the result most parties favored, or whether alternatively the issue is controlled by the State of Texas' Unclaimed Property Law. The parties agreed that this issue should be briefed, but that meanwhile reduction of the fuel factor and implementation of the refunds could and should proceed.

Pursuant to examiner's Order No. 7, signed October 30, 1985, GSU's fuel factor was reduced from the systemwide fuel factor of 3.066 cents per kilowatt hour (kwh) ordered in Docket No. 6376 to 2.788 cents per kwh. In addition, a refund of fuel cost overrecoveries plus interest for the period of August 1985 through October 1985, in the amount of \$11,299,554, was ordered.

After the briefs concerning the disputed issue relating to the Unclaimed Property Law were submitted, the examiner issued Order No. 21, dated January 27, 1986. In that Order, the examiner found that the Unclaimed Property Law controlled disposition of the refunds. This Order was appealed to the Commission, and by order dated February 19, 1986, the Commission, with Chairman Peggy Rosson dissenting, reversed Order No. 21. The examiner was instructed to include in the examiner's report a recommended mechanism which would allow the unclaimed refunds to be distributed to GSU's current ratepayers on a pro rata basis after a final order is entered in this case.

On February 21, 1986, the Commission amended its fuel rule, P.U.C. SUBST. R. 23.23(b)(2), establishing expedited procedures for approving fuel factor reductions and refunds of fuel cost overrecoveries.

On February 28, 1986, GSU filed a motion seeking a third reduction of its fuel factor and refund of fuel cost overrecoveries, this time utilizing the procedures and methodologies set forth in the new fuel rule. GSU sought a reduction in its systemwide fuel factor from 2.788 cents per kwh to 2.477 cents per kwh. This reduction was unopposed, and was granted by examiner's Order No. 31, dated March 19, 1986. In an April 4, 1986, order, pursuant to the procedures set forth in the new fuel rule, the Commission authorized the requested reduction in GSU's fuel factor.

The procedures and methodology for making refunds specified in the new fuel rule were contested by the State agencies which are customers of GSU (State Agencies) and by the State Treasurer which administers the Unclaimed Property Law. These parties accordingly contested the application of these procedures and methodology to the refunds sought by GSU in its February 28, 1986 motion. After hearing oral argument on the issues, the examiner concluded in Order No. 31 that the new fuel rule applied and ordered a refund of \$18,756,291. This amount includes the fuel cost overrecovery amount from October 1985 through February 1986 and interest on this amount through March 1986. The examiner denied a subsequent request to stay this order. The State Agencies and State Treasurer appealed these actions to the Commission, but the Commission declined

to hear the appeals. In the April 4, 1986, order, the Commission ordered the implementation of the \$18,756,291 refund. The Commission further ordered that discovery and opportunity for hearing on whether or not the overrecovery amounts, interest calculation and refund method proposed by GSU comply with the new fuel rule are to take place in the fuel reconciliation phase of the consolidated rate case. A schedule for accomplishing this was agreed to by the parties at the hearing on the merits.

B. Docket No. 6525 and Dismissal of Primary Filing

On October 1, 1985, GSU filed with the Commission a statement of intent to increase its rates within the portions of its service area over which the Commission has original rate jurisdiction (the environs case). This filing was assigned Docket No. 6525. There were two alternative parts of the request. First, GSU sought authorization to raise its rates by \$89,601,486, or 10.8 percent, in the first year, and \$87,790,277, or 9.55 percent, in the second year. The total increase for the two years would be \$177,391,763, or 21.4 percent, over total Texas adjusted test year revenues. This part of GSU's request, known as the Primary Filing, assumed Commission treatment of GSU's nuclear power plant project, River Bend Unit 1 (River Bend), as plant in service. Alternatively, assuming that River Bend was not treated as plant in service, GSU sought authorization to increase its rates by \$110,181,957, or 13.28 percent over total Texas adjusted test year revenues. This part of the request is known as the Alternate Filing. The rate requests were filed pursuant to Section 43(a) of the Public Utility Regulatory Act (PURA), Tex. Rev. Civ. Stat. Ann. art. 1446c (Vernon Supp. 1985). The proposed rate increases would affect all customer classes and customers within the Commission's jurisdiction in this case.

On October 4, 1985, the Office of Public Utility Counsel (OPC), representing GSU's residential and small commercial customers, filed a motion to dismiss Docket No. 6525. GSU filed a response on October 15, and the motion was argued at the first prehearing conference on October 21. On November 15, 1985, the examiner issued a Proposal for Decision Concerning Office of Public Utility Counsel's Motion to Dismiss, recommending dismissal of GSU's Primary Filing, but not dismissal of the Alternate Filing. Specifically, the examiner recommended granting Count II of OPC's motion, which requested dismissal of the Primary Filing because the second tier of the proposed rate increase would take effect too far into the future, and Count IV of OPC's motion, which requested dismissal of the Primary Filing because River Bend was not in service at the end of the test year. The examiner recommended denial of Count I of OPC's motion, which requested dismissal of the entire case due to use of a stale test year, and Count III of OPC's motion, which requested dismissal of the Alternate Filing because part of the relief requested was based on projected data. The examiner

recommended that Count V of OPC's motion, which requested dismissal of the case on the grounds that GSU should not be allowed to file alternative rate cases, be regarded as moot.

In a December 2, 1985 order, the Commission adopted the Proposal for Decision Concerning Office of Public Utility Counsel's Motion to Dismiss, except for the discussion concerning Count II, and thus dismissed the Primary Filing. Subsequent references to the rate request in the present Proposal for Decision refer to the Alternate Filing, unless indicated otherwise, or unless the context shows the reference is to the case as it existed prior to December 2, 1985.

### C. Parties

The parties to this case and their representatives are listed in Appendix C to the Proposal for Decision. Where an attorney is representing a large number of clients, specifically counsel for Texas Industrial Energy Consumers (TIEC), the State Agencies and those municipalities represented by the law firm of Butler and Casstevens (the Cities), a list of clients is included in Appendix D.

The only intervention disputed by a party was that of the Texas Attorney General's Office (AG). The AG alleged the following justiciable interests: the State of Texas is a customer of GSU and the AG is charged with representing the interests of the State and of the people of the State insofar as they are taxpayers and recipients of government service. The AG, Cities, and OPC supported the motion to intervene; GSU opposed it; and general counsel did not object to the AG intervening as a representative of the State Agencies as customers of GSU, but objected to the concept that the AG's justiciable interest might be broader. After reviewing the written pleadings and hearing oral argument, in Order No. 4, signed October 24, 1985, the examiner granted the motion to intervene on the limited ground that some state agencies are customers of GSU and the AG asserted that he is authorized to represent them. The AG's clients are referred to as the State Agencies in this Proposal for Decision.

The entities listed in Appendix C became parties in one or more of the following ways: intervention in Docket No. 6376, from which Docket No. 6477 was later severed; intervention in one or more of Docket Nos. 6477, 6525, 6660, 6748 or 6842; or status as appellee in an appeal from a municipal rate ordinance which was filed in Docket Nos. 6525, 6660, 6748 or 6842. The parties which presented testimony or cross-examined at the hearing on the merits are GSU, TIEC, North Star Steel Texas, Inc. (NSST), the State Agencies, the Cities, OPC and general counsel. Representatives for a number of municipalities, such as the mayor, city councilmen or the city attorney, and representatives for consumer groups and the County of Montgomery also attended, entered appearances at or made statements at the hearing.



D. Regional Hearing and Protest Statements

Pursuant to PURA Sections 10 and 43(c), two regional hearings were held in Docket No. 6525. The first occurred at the Beaumont Civic Center on November 7, 1985, and lasted for approximately eight hours. The second occurred in the Conroe City Council Chambers on November 8, 1985, and lasted for approximately four hours. Chairman Rosson, Commissioners Dennis Thomas and Jo Campbell and Administrative Law Judge Elizabeth Drews were present at both hearings. Approximately fifty-five customers spoke at the Beaumont hearing and approximately twenty spoke at the Conroe hearing. Also, a number of State and local government officials spoke at the hearings. In addition, about a dozen customers and a number of State and local government officials spoke at other proceedings conducted in this case, notably the hearing on the merits. The substance of the comments made at the regional hearings and other proceedings in this case is summarized below.

There were numerous complaints that GSU's rates are too high, are higher than the rates GSU charges in Louisiana, and are higher than the rates charged in Texas by other electric utilities. Many speakers referred to the depressed state of the local economy, and indicated that they could not afford to pay such high electric utility bills. A number said that they had made significant efforts to reduce consumption, but that their bills were still too high. Several speakers expressed their belief that the local unemployment problem had been exacerbated by employers going out of business because of high utility rates. Many protestants requested that the rates not be raised, or that they be lowered to the rates charged in Louisiana. Others requested elimination of the summer/winter differential, a rate design tool which results in higher summer rates and lower winter rates.

Several consumers expressed dissatisfaction with the attitude of GSU employees they had had dealings with, or distrust in the reliability of the information GSU provides them. Some customers in Beaumont stated that they had experienced difficulties with the accuracy of their meters. Customers in Conroe referred to voltage variation problems they had experienced. A few customers spoke in support of GSU. A number of customers expressed dissatisfaction with State laws or Commission policies or rules concerning rates or customer service issues such as deposits and fuel cost recovery and refunds. Others offered suggestions concerning energy-efficiency programs, such as offering interest-free loans or having a regional focus.

E. Scheduling and Effective Date

In examiner's Order No. 1 dated October 2, 1985, GSU's proposed rate increase was suspended for 150 days beyond the otherwise effective date of November 5, 1985, until April 4, 1986, pursuant to PURA Section 43(d).

At the first prehearing conference in Docket No. 6525, held on October 21, 1985, GSU agreed on the record to extend the effective date by 45 days, until December 20, 1985, to enable the staff to complete its study of River Bend. In Order No. 4, signed October 24, 1985, the effective date was resuspended for 150 days until May 19, 1986. The hearing was scheduled to begin February 24, 1986, with a final prehearing conference to convene on February 21, 1986.

On October 18, 1985, general counsel filed a motion to require GSU to correct certain deficiencies in its rate filing package, and for other relief pertaining to this problem. On October 24, 1985, GSU filed its response. On October 25, 1985, general counsel filed a reply. In Order No. 5, signed October 28, 1985, the examiner granted in part and denied in part general counsel's motion. The examiner found several deficiencies in the rate filing package, but concluded that they were insufficiently material to warrant dismissal or, in light of GSU's earlier 45-day extension of its effective date, suspension of the effective date at that point. Pursuant to P.U.C. PROC. R. 21.65(b), GSU was ordered to correct the deficiencies within ten days. In Order No. 9, signed November 19, 1985, the examiner found that GSU had met this deadline.

In January 1986, in response to certain discovery disputes (see Part I.F. of the Proposal for Decision), several parties filed motions for continuance, dismissal or sanctions. The parties eventually agreed to a three week continuance of the hearing and extension of the effective date, and to extensions of various prefiling and other dates. In accordance with GSU's agreement on the record at the February 4, 1986, prehearing conference, the effective date was extended until January 10, 1986, and in Order No. 25 signed February 7, 1986, it was resuspended for 150 days until June 9, 1986. The final prehearing conference was continued until March 14, 1986, and the hearing was continued until March 17, 1986.

The hearing on the merits began on March 17, 1986. Evidence was taken for seven weeks, then the hearing was recessed for settlement talks, reconvening from time to time for presentation of status reports. Under PURA Section 43(d), the 150 day period during which the effective date of a proposed rate increase has been suspended is automatically extended two days for each day of hearing in excess of fifteen days. The parties agreed that working days which occurred between the recess of the hearing for purposes of negotiations and the signing of a Commission order accepting or rejecting the settlement will operate to extend the suspension period in the manner described for hearing days in PURA Section 43(d). The hearing days necessary to finish trying the disputed issues will similarly extend the suspension period. As of the time this Proposal for Decision was written, the rate increase suspension has been extended into September 1986.

F. Prehearing Conferences, Discovery Disputes and Confidentiality

The first and the final prehearing conferences in this case mainly addressed scheduling and other matters not related to discovery. Six other prehearing conferences were held, primarily to address pending discovery disputes. These prehearing conferences convened on November 25 and December 13, 1985, and January 3, January 13, January 24, and February 4, 1986. Another prehearing conference was scheduled for February 14, 1986, but was cancelled after all issues to be addressed at that prehearing conference were resolved by negotiation among the parties. Except for the confidentiality issues discussed below, discovery disputes will not be detailed in this report. There were many discovery requests and disputes, most of which were resolved by the parties before the prehearing conferences began. The examiner's orders concerning the remaining discovery disputes, except for the orders concerning confidentiality, were not appealed.

The largest single discovery dispute concerned a large number of documents which GSU was willing to provide the parties, but wished not to be disclosed to the public. GSU claimed that these documents constituted trade secrets either of GSU or of a third party with which it had contracted. In Order No. 14, signed December 16, 1985, the examiner entered a protective order allowing the parties to obtain the documents and to request disclosure of any they believed should not be protected, but not to disclose the documents to the public pending issuance of a ruling concerning any such request. On January 3, 1986, OPC requested that all of the documents be disclosed to the public. On January 8, 1986, the Commission granted the Cities' appeal of Order No. 14 and dissolved the protective order. The documents were then recollected from the parties. Later in January, after hearing oral argument and reviewing the documents in camera, in Order Nos. 18, 20 and 22 the examiner ordered disclosure of all but a few documents. A protective order was issued with respect to the remainder. When Order Nos. 18, 20 and 22 were appealed by GSU, the Commissioners also reviewed these documents in camera and upheld the examiner's orders.

Two entities, Burlington Northern Railroad Company and General Electric Company, both of which were parties to contracts with GSU, appealed the Commission's decision in court. Since before the beginning of the hearing, court orders have been in effect prohibiting disclosure to the public of the small number of documents which were the subjects of the court appeals. Because of these court orders, certain exhibits to the direct testimony of staff fuel witness Stan Kaplan were filed under seal. However, it has not been necessary to close to the public the hearing in the consolidated rate case at any time.

G. Docket Nos. 6660, 6748 and 6842 and GSU Appeals From  
Municipal Rate Setting Actions

Under PURA Section 17, the Commission has original jurisdiction over GSU's rate request as it relates to the parts of GSU's Texas service territory which are outside city limits or inside the city limits of a municipality which has ceded its original jurisdiction to the Commission. All other municipalities have original jurisdiction over GSU's rate request as it pertains to area within their city limits. The Commission has appellate jurisdiction over the rate setting decisions of these municipalities if an appeal from their decisions is perfected.

GSU's statement of intent recites that virtually identical statements of intent were contemporaneously filed with all regulatory authorities exercising original rate jurisdiction over GSU. Those municipalities exercising original jurisdiction whose decisions GSU later appealed took a variety of actions concerning GSU's rate request. Some denied the rate increase; others ordered a rate reduction; and others did both. The rate reductions ordered by cities varied. A summary of actions taken by municipalities ordering a rate reduction is presented in Appendix E of the Proposal for Decision. A summary of all of GSU's appeals from city ordinances and any consolidations of those appeals with the environs rate case is presented in Appendix F.

In examiner's Order No. 4, signed October 24, 1985, a procedure was established whereby municipalities and parties were notified both of any motions to consolidate appeals of city rate setting actions with the environs rate case, and of the deadline for filing objections to any proposed consolidation. With every appeal from a municipal action denying the requested rate increase, GSU filed a motion to consolidate. None of these motions to consolidate were opposed, and all were granted.

The procedures with respect to city-ordered rate reductions were more complicated. Appeals from these actions were originally filed in Docket Nos. 6660, 6748 and 6842, and presided over by Administrative Law Judge Phillip Holder. These dockets were eventually consolidated with the environs case and subsequently handled by Administrative Law Judge Drews.

The first set of appeals from municipality-ordered rate reductions was considered in Docket No. 6660. The first such appeal was filed on December 31, 1985. As was true for each rate reduction considered in Docket Nos. 6660, 6748 and 6842, GSU requested interim rates at the level it was charging elsewhere in Texas.

At the first prehearing conference in Docket No. 6660, held January 14, 1986, GSU, the appellee Cities of Port Neches and Port Arthur, OPC, the State Agencies and general counsel appeared. OPC's motion to intervene was granted.

Also, the parties agreed on a procedural timetable leading to a hearing on the interim rate requests.

The second prehearing conference in Docket No. 6660 was held on January 28, 1986. The same parties appeared, along with the City of Groves. GSU had also filed an appeal from the City of Groves' rate reduction order. The State Agencies' motion to intervene was granted. In addition, the parties reached a stipulated settlement of the interim rate requests, which was approved by an examiner's order dated February 3, 1986. Under the stipulation, beginning February 3, 1986, GSU would charge interim rates at the level of the rates it had charged prior to the rate reduction ordinance. If the interim rates turned out to be higher than the rates approved in the Commission's final order in Docket No. 6660, GSU would implement a refund of the difference retroactive to February 3, 1986. GSU also agreed to a 45-day extension of its effective date in those cities, as it had in the environs case.

Pursuant to equivalent stipulations by the parties and three new appellee cities, interim rates were established in the Cities of Vidor, Bridge City and Nederland in an examiner's order signed March 7, 1986.

In examiners' Order No. 29, also signed March 7, 1986, Docket No. 6660 was consolidated with Docket Nos. 6477 and 6525. The parties did not object to this consolidation. However, the appellee cities expressed concern as to whether under PURA Section 26(e)(2), GSU's appeals from city-ordered rate reductions would be deemed approved unless the Commission issued a final order within 185 days after the filing of GSU's appeals. In Order No. 29, the examiners found that under PURA Section 26(e)(1), the Commission would not lose jurisdiction over Docket No. 6660 so long as it issued a final order by no later than the date it issued a final order in the environs case. Because of concern over this expiration of time issue, however, the appellee cities asked the examiners to reconsider Order No. 29. This request was denied in Order No. 30. The appellee cities then appealed Order Nos. 29 and 30 to the Commission. The results of this appeal are described in Section I.H. of the Proposal for Decision.

GSU also appealed from the rate reduction ordinances of the Cities of Orange, Pinehurst, Rose City and Beaumont. Because at the time Docket No. 6660 was consolidated with the environs case, stipulations had not been entered into by these four cities, GSU's appeals from their rate reduction ordinances were assigned Docket No. 6748. Subsequent appeals from similar actions by the Cities of Sour Lake, Rose Hill Acres, Kountze, and Silsbee also were assigned Docket No. 6748.

Pursuant to stipulations of the parties equivalent to those entered into in Docket No. 6660, interim rates were established by examiner's orders dated March 19, 1986, for the Cities of Orange, Beaumont, Rose City and Pinehurst;

April 1, 1986, for the Cities of Sour Lake and Rose Hill Acres; and April 22, 1986, for the Cities of Kountze and Silsbee.

Docket No. 6748 was consolidated with Docket Nos. 6477, 6525 and 6660 in examiners' Order No. 33, signed April 24, 1986. As in Docket No. 6660, the parties did not object to the consolidation, but the appellee cities had reservations as to the expiration of time issue discussed above. These concerns were addressed by the Commission at the time they considered the appeal of examiners' Order Nos. 29 and 30.

GSU also appealed from the rate reduction ordinance of the City of Lumberton. Because at the time Docket No. 6748 was consolidated with the environs case, a stipulation had not been entered into by this municipality, GSU's appeal from its rate reduction ordinance was assigned Docket No. 6842. Pursuant to a stipulation equivalent to those entered into in Docket Nos. 6660 and 6748, interim rates were established for the City of Lumberton by examiner's order dated May 9, 1986.

The heading of the Stipulation which is the subject of this Proposal for Decision referred to Docket No. 6842 as well as Docket Nos. 6477, 6525, 6660 and 6748. At the hearing in the four consolidated dockets on June 12, 1986, Mr. Don Butler, who indicated that he represented the City of Lumberton for this purpose, moved to consolidate Docket No. 6842 with the other four dockets. The other participants in Docket No. 6842, GSU and general counsel, and the other parties to the four consolidated dockets had no objection. Docket No. 6842 was consolidated with Docket Nos. 6477, 6525, 6660 and 6748 by examiners' Order No. 42 dated June 13, 1986.

H. Issues Concerning the Summer Differential and Order  
Nos. 29 and 30, and Settlement Negotiations

Several important events occurred in this case during a period beginning approximately seven and one half weeks into the hearing. First, on April 29, 1986, GSU filed a petition for an interim order authorizing GSU to adopt a method of deferred accounting and booking of income and expense associated with River Bend. The requested accounting treatment would cover the period between the commercial operation date of River Bend and the issuance of a final order in Docket No. 6525.

Second, in a letter to the other Commissioners which was sent to all parties to the case, Commissioner Thomas proposed to discuss implementation by GSU of its summer differential at the April 30, 1986, open meeting, at which appeals of examiners' Order Nos. 29 and 30 were scheduled to be heard. As discussed previously, GSU's current rates included a summer/winter differential, a rate design tool whereby GSU's rates are lower in the winter and higher in the

summer than otherwise would be the case. GSU's summer differential was scheduled to go into effect again on May 1, 1986, thereby raising the price of electricity to GSU's customers. Given the current poor economic conditions and hot, humid climate of GSU's Texas service area, the Commission expressed interest in the Commission and parties investigating whether it would be possible not to implement the summer differential on May 1.

Third, on April 30, 1986, the Commission considered the appellee cities' appeal of examiners' Order Nos. 29 and 30. The cities were anxious about the possibility that GSU's appeals from the cities' rate reduction ordinances would be approved by operation of PURA Section 26(e)(2) unless a final order were issued within 185 days after the appeals were filed. The Commission did not reverse the docket consolidations or the examiners' conclusions that under PURA Section 26(e)(1), expiration of time would not be a problem. However, the Commission was concerned by the possibility that the examiners' construction might not be the one ultimately adopted by the courts.

GSU offered to delay implementation of the summer differential to allow the parties to negotiate. The Commission agreed that this should be done. By agreement of the parties, beginning May 5, 1986, evidence was not taken at the hearing on the merits, which instead was recessed to allow settlement negotiations. There followed a period during which the parties discussed stipulation of various issues, and the Commission and examiner went back on the record from time to time to receive status reports. On May 7, 1986, the parties reported to the Commission that, with the exception of the Cities, which had not yet finalized their position, the active parties had reached a settlement of virtually all issues in the case. The stipulating parties wished to reduce their agreement to writing and to give the other parties an opportunity to decide if they wished to concur in the proposed settlement. GSU agreed to delay implementation of the summer differential until May 14, 1986, and longer if necessary to resolve the status of the stipulation. (GSU has extended this date from time to time, and the summer differential has not been implemented.) The essential terms of the settlement were read into the record when the examiner reconvened the hearing on May 7 after the open meeting. ] ←

With respect to the appellee cities' appeals of examiners' Order Nos. 29 and 30, at the May 7, 1986, open meeting, the Commission disapproved the settlements which had led to the interim rates in Docket Nos. 6660 and 6748, and held that the interim rate orders were invalid ab initio. However, the Commission stayed the effectiveness of this determination indefinitely pending resolution of the settlement talks.

As discussed on May 8, 1986, at the hearing on the merits, the examiner issued Order No. 35 on May 9, 1986, which notified all parties that settlement of most or all of the issues in the case was being considered by the parties, and which established a deadline for filing testimony in support of the proposed

stipulation. The order indicated that the hearing would reconvene on May 22, 1986, to allow any interested party which wished to express its position concerning the proposed settlement to do so. It provided that if no opposition was expressed, evidence supporting the settlement would be taken on that day, and that any party opposed to the stipulation needed to have a representative present at that time. These dates were extended pursuant to requests of the parties in Order Nos. 36 through 41. The hearing was reconvened several times in order to inform the examiner of the progress of the negotiations.

On June 12, 1986, the hearing reconvened to enable the parties to state their positions concerning the proposed settlement and, if no opposition was expressed, to take evidence in support of it. No opposition to the Stipulation was expressed, and pursuant to agreement of the parties, testimony supporting it was received in evidence without objection or cross-examination, for the limited purpose of supporting the Stipulation. The parties asked that the examiner's recommendations respecting the Stipulation be issued as soon as possible, and that the Stipulation be considered by the Commission at the June 25, 1986, open meeting. The parties indicated that two days for exceptions would be sufficient, and that replies to exceptions, if any, could be made orally at the open meeting.

The examiner considered issuing this Proposal for Decision as an Examiner's Report and proposed final order in these dockets, and recommending that the issues remaining in dispute be severed and assigned a new docket number. The examiner had in mind that the record in this case is enormous, and since only the disputed issues are likely to be appealed, an unnecessarily voluminous and unwieldy record would have to be sent to court in the event of an appeal if these issues are not severed. For reasons relating to confusion and finality for appeal purposes of the fuel refunds already made, the parties opposed this procedure. However, they agreed that the items listed on Stipulation Exhibit H constitute the only evidence admitted so far which must be sent to court in the event of an appeal and may be able to reach a similar resolution regarding the more than two dozen files of pleadings.

#### I. Issues Concerning the Hearing and the Examiner's Report

In the weeks before the hearing on the merits in this case, there were indications in cases involving other utilities of some dissatisfaction with procedures respecting the use of Commission staff expertise in the preparation of examiner's reports, notably with respect to calculating the numerical impact of the examiners' recommendations on utilities and customer classes. In an effort to avoid such complications in these dockets, before the hearing began the examiner invited comments by the parties concerning how the matter should be handled in this case. After written filings and oral argument on the question, on March 27, 1986, examiner's Order No. 32 was issued. In that Order, the examiner proposed to utilize staff experts who had not otherwise participated in



the case for the purposes described in Sections 14(q) and 17 of the Administrative Procedure and Texas Register Act (APTRA), Tex. Rev. Civ. Stat. Ann. art. 6525-13a (Vernon Supp. 1986). Appeals of this Order expired and the Order was deemed approved pursuant to P.U.C. PROC. R. 21.106. Since the Stipulation included revenue requirement and rate design schedules, it was unnecessary for the examiner to utilize staff expert resource to prepare this Proposal for Decision.

On March 14, 1986, GSU filed a motion to sever the joint sponsorship of certain testimony by the Cities and OPC, and by OPC and the Commission staff. After written responses and oral argument by the parties, the examiner denied this motion orally at the hearing.

#### J. Notice

As required by P.U.C. PROC. R. 21.22(b)(1), GSU published a statement of intent in conspicuous form and place once each week for four consecutive weeks prior to the effective date of the proposed rate change, in newspapers of general circulation in the counties in Texas in which it serves. GSU provided publishers' affidavits. GSU also notified affected municipalities and its affected customers individually of the proposed change, as required by P.U.C. PROC. R. 21.22(b)(2) and (3).

On November 5, 1985, GSU filed a motion for partial waiver of the Commission's rule concerning notice and for extension of the deadline for intervention. GSU stated that through an administrative breakdown, the mailed notice to customers of its rate filing was not completed by October 31, 1985, as required by P.U.C. PROC. R. 21.22(b)(2). Notice was accomplished by special mailing during the period November 4 to November 8, 1985. GSU observed that the effective date had already been extended by 45 days, and requested a ten-day extension in the deadline for intervention to ensure that no one was harmed by the delay in mailing notice. No objections to GSU's motion or notice were filed. In Order No. 9, signed November 19, 1985, the examiner granted GSU's motion to extend the deadline for intervention. The Order states that the examiner is not empowered to waive a Commission rule, but that she believed the harm which the rule was intended to avoid had been mitigated. The examiner notes that even after the extended deadline for intervention passed, several motions to intervene were filed. None of these motions to intervene were opposed, and all were granted.

#### II. Jurisdiction

The Commission has jurisdiction over this application and the consolidated appeals from municipal ratesetting actions by virtue of PURA Sections 16, 17(d) and (e), 37 and 43.

### III. Description of the Company

GSU was incorporated under the laws of the State of Texas in 1925. It is headquartered in Beaumont, Texas.

GSU is an investor-owned electric utility engaged principally in generating electric energy and transmitting, distributing and retailing such energy. It provides electric utility service in a 28,000 square mile area in Southeastern Texas and South Central Louisiana which extends a distance of over 350 miles, from a point east of Baton Rouge, Louisiana, to about 50 miles east of Austin, Texas. GSU's service area includes the northern suburbs of Houston and such large cities as Conroe, Huntsville, Port Arthur, Orange and Beaumont, Texas, and Lake Charles and Baton Rouge, Louisiana. GSU also sells electricity to municipalities and rural electric cooperatives in both Texas and Louisiana. GSU provides electric utility service to more than 500,000 customers. During the test year, which ended March 31, 1985, GSU served approximately 275,260 Texas retail customers. During the test year, 51 percent of GSU's electric operating revenues was derived from within Louisiana, and 49 percent from within Texas.

GSU's only proposed generating unit actively under construction is River Bend Unit 1, a 940 megawatt (mw) boiling water nuclear unit being constructed near St. Francisville, Louisiana. GSU currently expects River Bend to be placed in service in June 1986. GSU has an installed capacity of 6692 mw, including its 70 percent ownership of River Bend. Of this total, 5429 mw is gas-fired, 605 mw is western coal-fired and 658 mw represents GSU's share of River Bend. During the recent past, approximately 60 percent of GSU's system generation was provided by its gas-fired units, 15 percent by its western coal-fired units and 25 percent primarily by purchased power.

GSU's transmission system consists of a backbone 500 kilovolt (kv) system across South Louisiana into East Texas, with an underlying network of 230 and 138 kv lines. There is also a 345 kv system in the westernmost portion of GSU's service area. GSU is a member of the Southwest Power Pool.

In addition to its electric utility business, GSU produces and sells steam for industrial use, and it purchases and retails natural gas in the Baton Rouge, Louisiana, area. During the test year, 92 percent of GSU's operating revenue was derived from the electric utility business, 5 percent from the steam business and 3 percent from the gas business. The gas and steam products businesses are conducted entirely in Louisiana.

GSU has three wholly-owned subsidiaries: Prudential, Varibus and Finance. Prudential is engaged primarily in exploration, development and operation of oil and gas properties. Varibus operates intrastate gas pipelines in Louisiana primarily to serve GSU's generating stations. Varibus also holds lignite deposits in East Texas for possible use by GSU or sale to others. Finance is

incorporated under the laws of the Netherlands Antilles for the purpose of borrowing funds outside the United States and the lending of such funds to GSU and its subsidiaries. GSU is not a holding company or a member of a holding company system subject to the Public Utility Holding Company Act of 1935.

#### IV. Summary of the Stipulation Provisions and Supporting Testimony

This section contains a summary of the more important provisions of the Stipulation and of the testimony supporting each provision. Testimony and exhibits specifically prepared in support of the Stipulation were filed by GSU witness William J. Jefferson, NSST witness Samuel C. Hadaway, OPC witness Aarne Hartikka and staff witnesses Doug Divine, Stan M. Kaplan and Michael Still. This testimony was admitted into evidence at the hearing on June 12, 1986 for the limited purpose of supporting the Stipulation. It is discussed in some detail in this section. All other prefiled direct and rebuttal testimony and exhibits not previously in evidence were admitted for the same limited purpose on June 12, 1986. Due to time constraints, this testimony will not be summarized except where necessary to provide a context with which to discuss the Stipulation.

##### A. Article II: The Rate Decrease

Under Article II of the Stipulation, GSU's Texas retail revenues would decrease by \$194,357,490, of which \$80,000,000 is a reduction to base rates and \$114,357,490 is fuel related. The \$80,000,000 would be divided among the rate classes as follows: residential - \$61,300,000; small general service - \$376,000; general service - \$6,435,000; large general service - \$872,000; large power service - \$2,856,000; large industrial service - \$7,992,000; and street lighting - \$169,000. The stipulated Texas retail revenue requirement is \$612,143,131. This includes return of \$109,778,794, which represents a 12.48 percent rate of return on Texas retail invested capital of \$879,637,776. The invested capital figure includes \$125,921,483 of construction work in progress (CWIP). Inclusion of this CWIP would not affect parties' rights to argue in subsequent rate cases that these amounts should be excluded from rate base.

The Stipulation also specifies that the following items are included in the Texas retail revenue requirement figure. The first is \$38,131,525 in depreciation expense, which is based on the depreciation rates established in GSU's most recent general rate case, Docket No. 5560. These rates are set forth in Stipulation Exhibit E. The second is an increase in amortization expense related to the loss on cancellation of River Bend Unit 2 in the amount of \$639,029, and continuation of property insurance reserve accruals at the level established in Docket No. 5560. The additional amortization costs are amortized over the remainder of the 15 year amortization period utilized in Docket

No. 5560. The third is \$230,376 for the three year writeoff of the cost of the management audit performed by Temple, Barker & Sloane. The unamortized balance of that cost is \$460,753. Finally, the Stipulation states that the accumulated provision for depreciation shown on Stipulation Exhibit D in connection with calculation of Texas retail invested capital has been adjusted to remove an accumulated provision for depreciation for Big Cajun 2 Unit 3 in the amount of \$3,065,619.

Mr. Jefferson testified that GSU agreed to the rate reduction because GSU's two principal concerns in this case were addressed in the Stipulation: litigation of the Southern Companies issue (Article V), and issuance of the deferred accounting order (Article VI).

Dr. Hadaway testified that a rate decrease is in the public interest for several reasons. First, the economy in GSU's service area is not healthy, due to such problems as difficulties facing the oil, natural gas and petroleum based industries and high unemployment. Second, last summer GSU's residential rates were the highest in the State of Texas. In May 1986 the Commission staff estimated that the cost per kwh for 1,000 hours usage for residential customers was:

<u>Utility</u>	<u>Cost</u>
El Paso Electric	\$92.86
Gulf States Utilities	82.09
Houston Lighting and Power	80.36
West Texas Utilities	80.00
Southwestern Public Service	75.36
Southwestern Electric Power	74.50
Texas Utilities Electric	72.54
Central Power and Light	68.28
City of San Antonio	66.82
Lower Colorado River Authority	46.76

With the rate reduction, the same figure for GSU would be \$68. Third, the recent management audit of GSU performed by Temple, Barker & Sloane concludes that rate increases could be counter-productive, causing customers to leave the system or reduce usage by a greater percentage than the rate increase. In support of this finding, Dr. Hadaway testified as follows. GSU's kwh sales declined by 8 percent in 1985 and are expected to decline by 6 percent in 1986. They decreased by 13 percent in the first quarter of 1986 compared to the same period in 1985. Industrial sales declined in the first quarter of 1986 by 14 percent. Residential sales declined by 8 percent. Industrial load loss is 200 mw in 1985, 45 mw in 1986 and 450 mw in 1986-1987. Total possible industrial load loss is 1,097 mw. Fourth, a rate decrease may instill customer confidence in GSU.

Mr. Hartikka testified as follows concerning the rate decrease. The Stipulation avoids implementation of the summer differential, which is important because of the depressed economic conditions in GSU's Texas service area. Also, the proposed rates approximate rates currently in effect in Louisiana. Mr. Hartikka stated that rates in the two States should be approximately equal absent cost justification for material differences.

Dr. Divine began by comparing the Stipulation with the staff recommendation as expressed in prefiled testimony. He observed that the Stipulation proposal is similar to the staff's original recommended \$85,531,079 reduction in base rates and \$104,244,582 reduction in revenues through the fuel factor. Dr. Divine commented that the Stipulation addresses only total dollar revenues for the most part, but that some specific comparisons can be made. First, the staff in prefiled testimony recommended a 12.58 percent rate of return on invested capital, compared to the Stipulation figure of 12.48 percent. The Stipulation reduces the CWIP in rate base level to 13.2 percent, well within the range originally recommended by the staff. Second, the Stipulation fuel factor and fuel revenues are lower than those proposed by the staff or any party. The staff used a fuel factor of 2.1744 cents per kwh, while the Stipulation would set the factor at 2.094 cents per kwh. This represents a \$9 million reduction in fuel collections relative to the staff's original proposal. However, Dr. Divine pointed out that the rate impact differential could be affected by the outcome of the litigation of the Southern Companies issues. He noted that the Stipulation fuel factor includes the purchase of Southern Companies energy, while the proposal in the staff's prefiled testimony did not.

Two witnesses cited the advantage of speed which the negotiated settlement would have over litigating all of the issues. Dr. Hadaway observed that the Stipulation would avoid additional litigation of the River Bend prudence issue and other matters which will be before the Commission again in GSU's next rate case (the plant in service case), in which GSU is expected to request inclusion of River Bend in rate base as plant in service. Dr. Divine noted that a quicker resolution of the issues would benefit the ratepayers in two ways. First, the parties would avoid additional rate case expenses. Second, the new rates would be implemented sooner. Dr. Divine predicted that if the Stipulation were not adopted and the hearing on all issues resumed, a Commission final order would not be issued until November 1986, based on the number of remaining witnesses. Thus, the final order rates would go into effect in December 1986. Under the Stipulation, customers could begin paying the lower rates in June 1986. The Stipulation reduces monthly base rates by an average of \$6.67 million compared to \$7.5 million proposed in the staff's prefiled testimony. If GSU files its plant in service case in October 1986, the rates might go into effect in April 1987. Thus, if the Stipulation rates are implemented in June 1986, they would be in effect for almost ten months, with an accumulated savings to customers over current base rates of almost \$67 million. If the staff's originally proposed rates were implemented in December, the savings to

ratepayers from then until April 1987 would be only \$30 million. (The examiner doubts that a final order in a GSU filed plant in service case will be in effect as early as April 19, 1987. Even if GSU can file its plant in service case in October 1986, absent a settlement, the hearing in that case is likely to be lengthy. However, while this would affect the numbers, it would not affect the outcome of this part of Dr. Divine's analysis.)

B. Article III: Refunds to Customers in Certain Cities

Under Article III of the Stipulation, GSU would refund to its customers in sixteen cities the amount of base rates collected in each such city since a specified date which exceeded the base rate amount that would have been collected under the Stipulation. The sixteen cities are the fifteen cities whose rate reduction ordinances were the subject of GSU's appeals in Docket Nos. 6660, 6748 and 6842, as well as the City of West Orange. For the fifteen cities, the specified beginning dates for the refund period are the dates GSU and each city agreed to in their stipulations in Docket Nos. 6660, 6748 and 6842. Regarding West Orange, GSU witness William J. Jefferson testified:

One City, the City of West Orange, adopted a Resolution regarding reduced rates instead of enacting an ordinance. Since that Resolution does not indicate any tariff filing date or any effective date, the Company has agreed, for settlement purposes only, to a date determined in essentially the same manner as the others. That method was to allow ten days, from the date an ordinance was adopted, for the tariff filing specified in the ordinance and then to assume, as some ordinances specified, that the lower rates would go into effect on the first day of the next monthly billing cycle.

The total amount to be refunded through May 31, 1986, in the sixteen cities is estimated to be \$5,273,000. The cities would have the right to review the accuracy of GSU's calculations, confer with GSU personnel, and if necessary have a hearing concerning the amount of the refund. The refunds would be through a one-time bill credit based on historical usage during the refund period for each customer taking service at the time of the refund.

The State Agencies had asked GSU to estimate the unclaimed amount of the refunds which would be provided pursuant to Article III of the Stipulation. Mr. Jefferson testified that in light of the Article III refund methodology, there will be no unclaimed amounts. However, he noted that customers have left, or moved within, the GSU system during the relevant period. If this had not been true, those customers would have received refunds of approximately \$337,000.

C. Article IV: Fuel

The Stipulation resolves some rate case issues pertaining to GSU's fuel costs, and defers others either until the fuel reconciliation hearing to be held

in this case, or the plant in service case which GSU is expected to file. The examiner does not consider this Article of the Stipulation to be a model of clarity, and thus has indicated what she believes the parties have stipulated to. As with the other provisions of the Stipulation, if the examiner has misunderstood the parties' intent, they should so indicate in exceptions to the Proposal for Decision. The following items pertaining to fuel are discussed in the Stipulation.

First, the parties agreed on a systemwide Texas fuel factor of 2.094 cents per kwh. This is a decrease from GSU's current fuel factor of 2.477 cents per kwh, which became effective in April 1986.

Concerning this provision, Mr. Jefferson testified that the parties agreed in principle to the other aspects of the Stipulation without knowing precisely what the fixed fuel factor would be. Instead, the parties decided that the exact amount would be determined by consultation between GSU and the staff.

Mr. Kaplan testified that he adjusted his estimated test year coal costs during the settlement negotiations. Mr. Kaplan now expects these costs to be lower than indicated in his prefiled testimony. His revised estimates are \$1.85 per million British Thermal Units (MMBtu) for Nelson 6 and \$1.84 per MMBtu for Big Cajun 2 Unit 3 during the period June 1986 through May 1987.

Mr. Still testified that the Stipulation fuel factor is lower than that proposed in prefiled testimony by any party or the staff, primarily because natural gas prices have fallen more than had been expected in February. GSU has negotiated a lower price on four of its long-term gas contracts. Another gas supplier reduced its price by lowering its average gas costs. Spot gas prices also have declined, and are expected to continue to decrease.

According to Mr. Still, the Stipulation fuel factor utilizes Mr. Kaplan's recommended unit coal costs, and unit gas prices that represent a compromise among the parties. Mr. Still considers the unit gas prices reflected in the proposed fuel factor to be acceptable for settlement purposes. Mr. Still stated that the Stipulation also uses figures for total generation and companywide and Texas retail kwh sales proposed by GSU, rather than those of the staff. However, he testified that the differences are so slight that this will have little effect on total costs borne by Texas ratepayers.

Second, the parties agreed that reconcilable fuel and fuel related components of purchased power expenses for the Texas retail jurisdictional adjusted test year total \$238,960,394. The Stipulation provides that, with one exception, the components of reconcilable fuel costs are those approved by the Commission in Docket No. 5820, which was Step II of GSU's last general rate case. The exception is that increased energy costs as a result of the final order in Docket No. 5798, the Sabine River Authority rate case, are also deemed to be reconcilable.

Third, the stipulated treatment of fuel costs incurred by GSU after River Bend becomes commercially operable was described in some detail. The parties agreed that reconciliation of fuel costs incurred between the commercial operation date of River Bend and the date of the final order in the plant in service case would be deferred. The appropriate treatment of savings due to the use of nuclear fuel would be determined in the plant in service case. However, the parties stipulated to the methodology by which the amount of nuclear fuel savings would be calculated. Replacement power costs would be calculated using the same methodology as that used for River Bend test energy. That methodology is as follows. The fair value of nuclear energy would be determined using the displaced cost method. This method compares the energy cost based on actual system conditions to the energy cost assuming no generation from River Bend was available. This displaced cost would be determined on an hourly basis. The energy cost based on actual conditions would be the same estimates GSU system operators use when dispatching the system. The displaced cost would substitute other sources of energy for River Bend generation. Alternate sources of energy would lead to redispatching and possibly recommitting the system. The cost of available purchased power would also be considered if it meets GSU's normal operating guidelines. These guidelines currently state that purchased power costs must be at least one mill per kwh cheaper than GSU's generation costs before the purchase can be made. The displaced cost calculation would reflect GSU's normal operating guidelines and would be modified if those guidelines change.

Mr. Jefferson observed that the Stipulation provides only that the above method will be used to determine the amount of nuclear fuel savings. The appropriate treatment of those savings would be determined in the plant in service case. He also pointed out that since the Stipulation reconcilable fuel costs are based on the final orders in Docket Nos. 5820 and 5798, they include energy costs associated with power purchased from the Southern Companies, and reflect the deferral of nuclear fuel savings.

Dr. Hadaway testified that nuclear fuel savings should be deferred as provided in the Stipulation, reasoning as follows. Unlike contracts for fossil fuels negotiated for various generating plants in the day-to-day fuel markets, nuclear fuel is essentially a capital resource tied directly to GSU's capital investment in River Bend itself. The relatively low cost of nuclear fuel is intended to balance the huge capital and other costs unique to nuclear generation. Deferral of River Bend fuel savings and the availability of such savings until the plant in service case appropriately matches the deferral of all other River Bend costs.

Mr. Still's testimony on the issue of deferral of nuclear fuel cost savings was similar to that of Dr. Hadaway. He also observed that the stipulated treatment would enable the ratepayers who pay the deferred costs associated with nuclear power to reap the associated benefits. Mr. Still testified that under



the Stipulation, nuclear fuel generation, both for self-generated energy and for River Bend energy purchased by GSU from CEPCO, has been priced at incremental spot gas costs. The reasonableness of the nuclear fuel costs will be determined in the plant in service case. Nuclear fuel savings deemed reasonable could be refunded to ratepayers at the end of the plant in service case, or capitalized with the deferred costs.

Third, the Stipulation provides that the September 1985, November 1985 and April 1986 fuel refunds are interim in nature. (Although the testimony does not refer to this provision, the examiner has assumed that it is intended to alleviate concerns of the State Agencies and State Treasurer as to preservation of their right to appeal in court the methodology and procedures used to make those refunds. Article IX is similar.)

Fourth, the Stipulation provides that pursuant to P.U.C. SUBST. R. 23.23(b)(2), all overrecoveries or underrecoveries of fuel costs for the period February 1984 through February 1986 would be reconciled in the fuel reconciliation part of the hearing in this case. The examiner notes that, as discussed in Section I.A. of the Proposal for Decision, the Commission in interim orders in this case directed that two fuel cost overrecovery refund issues be addressed in the examiner's report. These issues are the mechanism to allow unclaimed refunds from the October 1985 refund to be distributed to GSU's ratepayers pro rata, and the question of whether or not the overrecovery amounts, interest calculation and refunds proposed by GSU in connection with the April 1986 refund comply with the new fuel rule. The examiner has assumed that the parties contemplate that evidence concerning these issues will be presented during the fuel reconciliation portion of the hearing in this case.

Fifth, the Stipulation states that it does not preclude any party or the staff from filing a petition to remedy any future underrecovery or overrecovery of GSU's fuel costs.

Finally, GSU agreed to evaluate carefully whether it should take additional steps to stay closely informed concerning CEPCO's administration of coal supply, coal transportation and the coal inventory for Big Cajun 2 Unit 3, and if so, to take such steps. GSU would file testimony addressing its efforts in this regard in its next rate case. GSU would carefully evaluate whether or not it should become a party to CEPCO's litigation concerning the design and construction of Big Cajun Units 1 and 2.

D. Articles V and XV(D): Southern Companies Contracts

Under the Stipulation, the hearing would be reconvened to continue taking evidence regarding certain disputed issues relating to the contracts under which GSU purchases power from the Southern Companies. The prudence of these contracts has been challenged by the intervenors and staff. Specifically, the

hearing would address whether or not the capacity and energy costs which GSU will incur pursuant to the contracts, excluding certain facilities charges under Article IV of the Transmission Facilities Agreement, should be allowed in GSU's revenue requirement. The issues to be decided would include the Commission's jurisdiction and authority to determine the prudence of the contracts, including but not limited to issues raised in one of GSU's motions to strike. The parties agreed that facilities charges related to the contracts are included in the stipulated rates. They stipulated to the evidentiary record, other than cross-examination and associated exhibits, to be used to resolve the disputed issues. To the extent that the Commission decides that capacity and energy costs arising under the contracts should be included in GSU's revenue requirement, the final order in this case would increase GSU's revenue requirement and base rates above the stipulated amounts in an amount sufficient to cover the allowed capacity costs. Such an increase, if any, would be effective from and after the date of the final order. If the Commission finds that it has jurisdiction over the Southern Companies prudence issues, and that the capacity and energy costs should not be allowed in GSU's revenue requirement, the final order would not change GSU's revenue requirement, base rates or fixed fuel factor. To the extent that the Commission's final order, or court order on appeal of the Commission's decision, results in an increase in GSU's base rates, the increase would be divided among the rate classes in the same proportions as those stipulated to for each class' rate decrease.

Article XV(D) of the Stipulation provides that nothing in the Stipulation is intended to impair or shall impair any rights or remedies reserved by GSU under the Southern Companies contracts, or any rights concerning such contracts or these proceedings which GSU has pursuant to contractual provisions or provisions of law, or GSU's procedural rights to pursue such substantive rights.

Mr. Jefferson testified that preservation of the right to litigate the Southern Companies issue was an essential term of the Stipulation for GSU.

Dr. Hadaway testified that it is in the public interest to litigate the issue. He noted that the Commission in Docket No. 5560 directed that the staff and other parties address the issue in GSU's next general rate case, which is the present case. Dr. Hadaway testified that the Southern Companies contracts involve vast sums of money, over \$2 billion in payments by GSU to the Southern Companies during the period 1986 through May 1992. The capacity payments, which are take or pay in nature, are approximately \$1.2 billion. Dr. Hadaway stated that GSU has told the Southern Companies that it does not need the capacity and has asked the Southern Companies to eliminate or suspend the capacity payments. He commented that GSU, NSST and the staff have expended considerable effort and expense in providing testimony on the issue. Dr. Hadaway distinguished the Southern Companies issue from the River Bend issue because ultimate resolution of River Bend issues will require additional facts, such as information about events occurring since GSU's testimony was filed or which may occur in the next

several months. He indicated that all of the facts are available respecting the Southern Companies issues, and the record can be efficiently completed at this time.

Concerning the contracts, Mr. Hartikka testified that the intervenors' and staff's objectives during settlement negotiations were to nullify the rate impact of the purchases and at the same time leave GSU in the strongest possible position in its negotiations with the Southern Companies, or in court should litigation with them ensue. This meant that the stipulated revenue level should include no recovery of purchased power costs from the Southern Companies, and GSU could agree to nothing that might be construed by the Southern Companies or a court as agreement to a rescission of its contractual obligations. Mr. Hartikka concluded that the Stipulation provides a reasonable resolution of this problem at the present time.

E. Article VI: Deferral of River Bend Costs

A brief background might be useful in discussing Article VI of the Stipulation.

In prefiled testimony and cross-examination, the intervenors and staff have vigorously questioned the prudence of costs associated with River Bend, including a contractual buyback arrangement under which GSU would purchase substantial portions of CEPCO's power from River Bend during its first three years of operation. As noted in Section I.H. of the Proposal for Decision, GSU requested an interim accounting order permitting it to defer certain costs relating to River Bend. The Stipulation also refers to contra-allowance for funds used during construction (contra-AFUDC) which is a mechanism utilized by GSU to ensure that the Texas and Louisiana ratepayers each receive credit for the proper amounts of CWIP and AFUDC on construction projects later used to serve the needs of customers in both States. (A more detailed explanation of contra-AFUDC is contained in Schedule C-7 of GSU's rate filing package.) Article VI of the Stipulation would address these and other issues with specific language to be included in the Commission's order.

Basically, under Article VI, GSU would be ordered to defer those costs which have been capitalized with respect to River Bend during its construction, as well as the buybacks of capacity from CEPCO, including fuel savings related thereto. This part of the order would be effective when River Bend is commercially in service as defined by the Commission. The order would require that the amount to be deferred with respect to the capacity and operating costs, but not the fuel costs, of the CEPCO buyback payment for the first twelve months the payments are made on a Texas retail basis not exceed the amounts actually paid to CEPCO during the period, or \$106,557,000, whichever is smaller. The deferrals would also include the decommissioning costs, depreciation expense and

amortization of contra-AFUDC which otherwise would be recorded on the unit and full income tax normalization to reflect these items properly. The deferral of the costs and accrual of carrying costs thereon would continue until the effective date of the rates approved in the plant in service case. The carrying costs would be accrued at GSU's overall net AFUDC rate calculated in accordance with prescribed federal regulatory guidelines.

Under the Stipulation, the recovery of all deferred costs would be included in the plant in service case. However, the Commission would reserve the right to exclude from rate recovery any portion of the expenditures for the plant, AFUDC, capitalized expenses, capitalized depreciation, capitalized carrying costs or other capitalized costs which it determined to be related to plant that is not used and useful or to have been imprudently spent or incurred. The Commission also would reserve the right to exclude from rate recovery any portion of the deferred capacity payments resulting from the CEPCO buyback which are determined to be unreasonable or unnecessary. The Commission would reserve the right to consider if such deferred capacity payments can and should be reduced pro rata for recovery purposes to the same extent as the Commission excludes from rate recovery other items. The Stipulation would not preclude any party from raising any argument concerning the inclusion or exclusion of CEPCO buyback expenses from the cost of service. The parties could raise and the Commission could consider the reasonableness, prudence and appropriate regulatory treatment of any deferred expenses in the plant in service case.

Mr. Jefferson stated that these provisions also were an essential part of the Stipulation for GSU. His testimony contains the following statements in support of the proposed treatment.

First, GSU presently anticipates that River Bend will be in service in June 1986. At that time, the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts will require that AFUDC no longer be accrued. In addition, GSU will incur over \$100 million quarterly in expenses associated with the commencement of River Bend operation. Upon commercial operation of River Bend, GSU also must begin to record substantial amounts of depreciation expenses. According to Mr. Jefferson, if the Commission does not offset the loss of AFUDC and defer the increase in expenses, GSU's financial integrity may be destroyed. GSU's earnings will be reduced approximately \$16 million or 16 cents per share per month simply on the basis of the Texas retail portion of these factors. In addition, Mr. Jefferson stated that failure to obtain an accounting order would jeopardize GSU's access to the capital markets. GSU estimates its 1986 cash requirements at \$456 million, most of which must be provided through sale of securities. Mr. Jefferson testified that if GSU cannot maintain at least minimal financial integrity, it would not be able to finance under reasonable terms, or possibly at all. He said that recent, serious developments have had a substantial impact on GSU's financial condition and performance. Since May 29, 1986, all three major bond rating services--Moody's,

Standard & Poor's, and Duff & Phelps--have downrated GSU's bonds below investment grade. On May 12, 1986, GSU's Board of Directors reduced the quarterly common stock dividend from 41 cents to 26 cents. On June 9, 1986, the price of GSU's common stock reached a 52 week low of \$7 5/8 a share compared to a high and low of \$13 7/8 and \$11 5/8 for the month of September 1985, the month before the filing of the Texas rate case. Mr. Jefferson indicated that GSU continues to face significant external financing requirements which would increase as a result of the rate reduction.

Second, GSU also believes that certain regulatory assurances are necessary in order to defer the described costs in accordance with paragraph 9 of Statement of Financial Accounting Standards (SFAS) No. 71, "Accounting for the Effects of Certain Types of Regulation." SFAS No. 71 conditions the implementation of the proposed accounting treatment upon the approval of the regulatory commissions having jurisdiction over rates. SFAS No. 71 also requires an indication that the ratemaking implications of the accounting procedures will be considered by the Commission in the ultimate resolution of GSU's rate order in this case. In GSU's opinion, the accounting order provided for in the Stipulation should meet those requirements.

Third, Mr. Jefferson testified that the Commission in Application of El Paso Electric Company for Authority to Change Rates, Docket No. 6350 (February 3, 1986) allowed the same kind of remedy that GSU seeks here.

Dr. Hadaway testified that it is in the public interest for GSU to receive approval of the accounting changes contained in the Stipulation. Not to do so, he indicated, would be harmful to GSU's financial well being. For example, according to Dr. Hadaway, GSU would show negative income to retained earnings; its return on equity would be negative; and its AFUDC to income ratio would be -809.8 percent. Dr. Hadaway stated that the accounting orders would not affect rates resulting from this case, and the deferred costs can be adequately scrutinized in GSU's next rate case. He agreed with Mr. Jefferson that the proposed accounting treatment is the same as that granted regarding El Paso Electric Company's Palo Verde Nuclear Generating Station in Docket No. 6350.

Mr. Hartikka testified that the Stipulation affords ratepayers ample opportunity to avoid the adverse consequences that would otherwise result from the existing contractual undertakings between GSU and CEPCO. Mr. Hartikka concluded that since the prudence and efficiency of the buyback charges are dependent in part upon the Commission's findings regarding River Bend, it is reasonable to defer the issue until the Commission completes an investigation of River Bend costs. He also testified that GSU's exposure to disallowances creates incentives for GSU to bargain as vigorously as possible with CEPCO to try to obtain relief from the existing contractual obligations.

F. Articles VII and XI: Rate Moderation Plan  
and River Bend Prudence Docket

Article VII of the Stipulation provides that in the plant in service case, GSU would propose a rate moderation plan to defer the recognition in rates of part of River Bend's costs from the early to the later years of operation. Concerning this provision, Mr. Jefferson stated that the Stipulation leaves open the nature of the rate moderation plan, and that GSU is studying that matter actively. Mr. Hartikka testified that the rate moderation plan provision is important, because any attempt to apply conventional capital recovery methods to River Bend could cause serious injury to a service area already suffering from depressed economic conditions.

In Article XI, the parties agreed that testimony admitted into evidence and cross-examination concerning it in this case which addresses River Bend prudence may be offered and admitted into evidence in Docket No. 6755, the River Bend prudence docket. Testimony not admitted during the actual hearing in Docket Nos. 6477, 6525, 6660, 6748 and 6842 would be subject to cross-examination and motions to strike. Mr. Henry Card, who is the presiding examiner in Docket No. 6755, attended the June 12, 1986 hearing in the consolidated dockets and indicated that the parties in his docket are a subset of the parties in the consolidated dockets, and that this provision in the Stipulation is acceptable to him. He observed that this evidence should be reoffered in his case.

G. Articles VIII and X: Payment of Public  
Party Rate Case Expenses

Under Article VIII of the Stipulation, GSU would pay the reasonable expenses of a Public Parties Committee for the services of expert consultants on the subject of GSU's prudence concerning River Bend. Such services would be obtained in connection with the pending River Bend prudence inquiry docket, Docket No. 6755, and the not yet filed plant in service case. This agreement would have no precedential effect, and GSU is not admitting any legal obligation to pay these costs. Under the Stipulation, there would be a cap on GSU's obligation to pay for these expenses of 80 percent of the contract limits on compensation for GSU's consultants in this case, the firm of Pickard, Lowe and Garrick. The Public Parties Committee would consist of those public entities charged under PURA with regulatory authority or responsibility to represent specific ratepayer interests (which the examiner notes could include municipal regulatory authorities, OPC and the staff) and the State Agencies. GSU would agree to pay the cost of the expert witnesses promptly upon receipt of invoices. GSU could apply to recover such expense fully in its next rate case, and could seek an appropriate determination of the reasonableness of the amount of such expenses.

Mr. Hartikka described these provisions as being of utmost importance, since they would assure all of the adversarially aligned parties of access to the technical and legal resources needed to litigate these issues fully and fairly. Mr. Hartikka stated that absent this provision, it is likely that one or more customer classes would be seriously underrepresented in these proceedings. He testified that this provision also is equitable, inasmuch as several parties have already expended considerable resources on this complex issue and are now agreeing to forego a resolution of it for the present.

In Article X the parties stipulated that the Cities' rate case expenses, in this and other proceedings, presented to GSU and not previously objected to are reasonable and would be reimbursed by GSU within 15 days after approval of the Stipulation by the Commission. The Stipulation further provides that GSU would reimburse such expenses not yet presented to GSU within 30 days after receipt of invoices, subject to GSU's right to seek a Commission determination of the reasonableness of such expenses.

H. Articles XV(B) and XIII: Effective Date of Rate Decrease,  
Tariff and Rate Design

Article XV(B) of the Stipulation provides that the Stipulation is binding as a settlement only if approved by the Commission without modification, or if modified, only if such modification or inconsistent finding or conclusion is accepted within 15 days by the party or parties affected by it.

Article XIII of the Stipulation provides that the proposed tariffs which constitute Exhibit C to the Stipulation accurately reflect the agreed-to changes in GSU's tariffs. The rates set forth in the tariff are to be effective for service on and after the date the Commission issues an order approving the Stipulation without modification, or if the Commission's order modifies the Stipulation, on or after the date on which such modification is accepted by all parties adversely affected by it.

Mr. Jefferson testified as follows concerning the stipulated rate design. The rate schedules and rules and regulations attached to the Stipulation as Stipulation Exhibit C represent the appropriate rate design which would produce the agreed revenue requirement. That rate design reflects a monthly residential customer charge of \$7.00. There would also be a price differential between the standard energy charge and tail block energy charge during the winter months of 2.0 cents per kwh. The monthly residential customer charge for the optional time-of-use rate would be \$10.50. Mr. Jefferson stated that the parties agreed that the present terms of GSU's experimental interruptible rider to the Large Industrial Service (LIS) rate would remain in effect, except that the interruptible credit would be decreased proportionately to track any decrease in the demand charge in the standard LIS rate. In addition, GSU would offer a \$5.00 per kw per month credit for a five-minute interruption notice.

According to Mr. Jefferson, the parties agreed that GSU would implement experimental incentive riders for Good & Beautiful Homes, Employment and Economic Development Service, and the experimental supplemental short-term service rate. These experimental riders and the short-term service rate, however, would expire on the date of the Commission final order in GSU's next rate case, unless extended by that final order. In addition, GSU agreed that if it requests extension of these incentive rates in the next rate case, GSU would, at that time, file a cost-benefit analysis of the incentive rates.

I. Article XIV: Settlement of Pending Litigation

In Article XIV, the Stipulation provides that within 30 days after the date the Stipulation becomes binding as a settlement under Article XV(B), all parties to the appeals of the Commission's orders in Docket Nos. 5560 and 3871 would terminate all proceedings in such appeals. Within the same period, GSU would withdraw its motion for rehearing in Docket No. 6564 filed May 29, 1986.

J. Article XVIII: Cities' Audit of AFUDC Accounting Methodologies

Article XVIII indicates that pursuant to PURA Section 27(d), the intervenor cities intend to audit GSU's AFUDC accounting methodologies and present the results in the plant in service case. GSU agreed that such audit may be commenced before that case is filed, and agreed to cooperate with the cities during the audit.

K. General Provisions of the Stipulation

In addition to the items described previously, the Stipulation contains the following provisions. The parties agreed to the revenue requirement amounts for settlement purposes only (Article I). They expressed belief that the facts in the case provide sufficient legal support for the settlement (Article I). The Stipulation is intended to address only those issues expressly covered by its terms (Article IX). Every provision in the Stipulation is in consideration of every other provision (Article XV(A)). The Stipulation does not constitute an admission by any party that any contention in these proceedings is true (Article XV(C)). The Stipulation represents a compromise and is not to be regarded as precedential in nature (Article XV(E)). The settlement discussions are to be regarded as privileged (Article XV(F)). If the Commission does not approve the Stipulation without modification, the Stipulation would be considered withdrawn and a nullity and not part of the record in this case to be used for any other purpose (Article XV(F)). The Commission and administrative law judge are not bound to accept the Stipulation (Article XV)).



L. Other Matters Described in Testimony  
Supporting the Stipulation

Mr. Hartikka testified that OPC requested input from legislators in GSU's service area regarding the Stipulation. Copies of the letters from legislators which OPC received in response are attached to Mr. Hartikka's testimony. Mr. Hartikka testified that the letters indicate broadly-based agreement with the proposed settlement. He stated that one letter indicates reservations expressed prior to the finalization of the settlement, but that he thinks the current Stipulation may address those concerns.

Mr. Jefferson stated, in response to a request from the State Agencies, that the amount of undistributed fuel cost overrecovery refunds was \$1,283,772.93 for the September 1985 fuel refund and \$271,297.86 for the November 1985 fuel refund. He also testified that GSU has finished its refunds in connection with the United Gas settlement provided for in Docket No. 5108, and that there remains \$15,000 in undistributed funds. The Stipulation in Docket No. 5108 left disbursement of these funds for determination by the Commission in GSU's next rate case, which is this case. GSU suggests in light of the substantial rate reduction to which GSU has agreed, that the Commission find that the refund process is complete and direct that the appropriate accounting entries be made to reflect that the undisbursed balance is part of the \$80 million rate reduction. Mr. Jefferson testified that this would put an end to the matter and, since the undisbursed amount is so small, there is no possible ratepayer impact from any other treatment of the balance.

V. Examiner's Recommendations

The parties recognize that the Stipulation is not to be interpreted as precedential. The stipulated resolution of the issues might not be the precise result the examiner would have recommended absent the Stipulation. It would be surprising if it were, given the number and complexity of the issues. Nonetheless, the examiner recommends approval of the Stipulation without modification. A review of the entire record supports the conclusions both that the Stipulation is reasonable based on the evidence, and that its adoption is in the public interest. Moreover, the Stipulation is the result of protracted and no doubt painful negotiations by counsel representing a broad spectrum of interests. The examiner would also emphasize the following.

First, continued litigation of all issues almost certainly would result in the longest electric utility rate case hearing in the history of the Commission. After seven weeks of testimony, approximately only twenty out of eighty witnesses have testified. Cross-examination concerning GSU's direct case is not yet finished. For the most part the length of the hearing has resulted from thorough, as opposed to repetitive, cross-examination and from numerous procedural controversies. Given the severe economic implications of this case

for all parties, the examiner would expect the number and intensity of the conflicts to continue if the issues must be resolved by litigation. As Dr. Hadaway's testimony suggests, the Stipulation may represent a first step toward constructive cooperative, resolution of the crises now facing GSU and its customers.

Second, obviously, such prolonged litigation is extremely expensive for all parties. Settlement of the stipulated issues would greatly shorten the length of the proceedings and associated briefs not only in this case but also in any court appeals, which would be limited to the issues remaining in dispute. This factor is particularly important given the emphasis which economic difficulties have placed on the need for austerity for GSU and its customers.

Third, significantly reducing the length of Commission proceedings and scope of any judicial appeals should assist GSU and its customers in their financial planning by greatly lessening the uncertainty inherent when experts' recommendations are as disparate as they are in this case.

Fourth, as noted by Dr. Divine, rapid resolution of most of the issues in the case would give meaning to the parties' efforts by ensuring that the rates which result would be in effect for a significant period of time. The residential customers would greatly benefit from a rate decrease which is effective at the beginning of the summer when their electric usage is highest. A sizeable rate decrease at this time, combined with GSU's commitment to propose a rate moderation plan with respect to River Bend, also might help preserve GSU's declining customer base by encouraging customers who were seeking alternatives to remain on GSU's system.

Finally, the examiner is mindful that certain terms of the Stipulation are unique, even startling. However, the problems currently being faced by GSU, its ratepayers and their communities are uncommon in their severity and complexity, and may require unusual solutions. Mercifully, there are few, perhaps no other, electric utilities in Texas which face such a combination of problems of this magnitude, where rates have been so high, the financial condition of the utility so poor, the customer base so imperiled and the consumers so little able to bear the burden of additional rate increases. In the examiner's opinion, counsel for GSU, the intervenors and staff in forging the Stipulation have realistically, capably and courageously represented their clients' interests, and the examiner would commend them for their efforts.

A few provisions of the Stipulation warrant specific mention. First, both the base rate and fuel-related rate decreases which would result from the Stipulation are very large. The rate reductions clearly would benefit GSU's customers and local communities, and merit some discussion with respect to GSU.