

Meeting No. 941

THE MINUTES OF THE BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM

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June 27, 2001

Austin, Texas

MEETING NO. 941

WEDNESDAY, JUNE 27, 2001.--The members of the Board of Regents of The University of Texas System convened via telephone conference call at 9:05 a.m. on Wednesday, June 27, 2001, on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following in attendance:

ATTENDANCE.--

Present
Chairman Miller, presiding
Vice-Chairman Riter
Vice-Chairman Romero
Regent Hunt
Regent Krier
Regent Oxford
Regent Sanchez

Absent
*Vice-Chairman Clements
**Regent Craven

Counsel and Secretary Frederick

In accordance with a notice being duly posted with the Secretary of State and there being a quorum present, Chairman Miller called the meeting to order. He announced that the purpose of this special called meeting was to consider matters of sufficient urgency to require immediate consideration by the Board prior to the next regularly scheduled meeting on August 8-9, 2001.

1. U. T. Austin: Authorization to Negotiate a Contract Amendment with Coral Energy Resources, L.P., Houston, Texas, and for the Senior Vice President and Chief Financial Officer to Execute all Documents Related Thereto

Upon motion of Regent Krier, duly seconded, the Board authorized an amendment to the current gas sale contract between The University of Texas at Austin and Coral Energy Resources, L.P., a Delaware limited

*Vice-Chairman Clements was unable to establish a telephone connection.
**Regent Craven was excused due to a previous commitment.

partnership, Houston, Texas, for the remaining term of the existing contract from August 1, 2001, to August 31, 2002, to allow the pricing method for 70% of the natural gas purchased to shift from a variable monthly price to a price that fluctuates within a minimum and maximum price range. The maximum price range will be estimated to be no more than \$5.25 per million British thermal units (MMBtu) and the minimum will be the lowest negotiated price possible.

Further, the Senior Vice President and Chief Financial Officer at U. T. Austin was authorized to execute the contract amendment, as approved by the Office of General Counsel, and to take all such actions deemed necessary or desirable to carry out the purpose and intent of the foregoing action.

U. T. Austin has experienced a substantial increase in both the cost of natural gas and the variability of price over the past year and all indications suggest that cost and price variability will remain much higher than U. T. Austin has experienced historically.

U. T. Austin and the Office of General Counsel have negotiated an amendment to the existing contract with Coral Energy Resources, L.P., which was effective September 1, 1997, and extended in 2000 for a term expiring on August 31, 2002. The cost will vary within the range established based on the Houston Ship Channel Index, as determined immediately upon Board authorization of the amendment, but will not exceed the maximum or drop below the minimum. The remaining 30% of U. T. Austin's estimated natural gas volume will be priced according to the Houston Ship Channel Index price, the pricing mechanism under the current contract.

An essential element of the fixed price amendment is the establishment of a fixed volume of natural gas that will be purchased. U. T. Austin has established a minimum purchase amount set at 70% of total estimated volume. This level is based on an analysis of historical consumption and will ensure that minimum contract requirements can be met, thus avoiding financial penalties.

Chairman Miller called on Dr. Patricia L. Clubb, Vice President for Employee and Campus Services at U. T. Austin, who discussed the variability of the gas market and said this was a unique opportunity for U. T. Austin to stabilize its budget and to realize cost savings for the next fiscal year. In response to a question by Regent Oxford related to an offer by the General Land Office (GLO) to provide natural gas, Dr. Clubb said the GLO is not able to handle the volume of natural gas needed by U. T. Austin. Regent Krier asked about other State agency contracts and long-term advantages and Dr. Clubb responded that Texas A&M University has recently "fixed" their natural gas

contract and, although energy prices are currently declining, prices are expected to rise. Dr. Clubb noted that having a fixed rate will protect U. T. Austin for the remaining 13 months of the contract. She also said that competitive proposals will be sought for the long term.

Regent Hunt clarified that this is a risk transfer issue and asked that the U. T. Board of Regents' Finance and Planning Committee review this issue and make a recommendation on future energy contracts.

Note from the Counsel and Secretary to the Board: At the conclusion of the meeting, Counsel and Secretary Frederick announced that U. T. Austin had just concluded negotiations with Coral Energy Resources at a fixed price of \$3.79 and the contract amendment would be signed today (June 27, 2001).

2. U. T. Health Science Center - Houston and U. T. M. D. Anderson Cancer Center: Approval to Apply for Public Assistance Grants from the Federal Emergency Management Agency (FEMA); and Authorization for the Executive Vice President and Chief Operating Officer at U. T. Health Science Center - Houston and the Executive Vice President at U. T. M. D. Anderson Cancer Center to Execute All Documents Related Thereto

In response to Chairman Miller's request for a motion, Regent Oxford moved and Vice-Chairman Riter seconded that the Board:

- a. Authorize Mr. John Porretto, Executive Vice President and Chief Operating Officer at The University of Texas Health Science Center at Houston, and Mr. Leon Leach, Executive Vice President at The University of Texas M. D. Anderson Cancer Center, to apply for public assistance grants from the Federal Emergency Management Agency (FEMA) relating to flood damage sustained at the respective institutions in June 2001 as a result of Tropical Storm Allison
- b. Authorize these officials to take all necessary steps related thereto, including executing all FEMA documents and providing such additional information as may be required by FEMA.

The motions carried by unanimous vote.

Four days of record rainfall in June 2001 from Tropical Storm Allison resulted in extensive flood damage to U. T. Health Science Center - Houston and U. T. M. D. Anderson Cancer Center. The presidents of both component

institutions support the filing of applications for public assistance grants from FEMA and have identified Mr. John Porretto and Mr. Leon Leach, respectively, as the individuals to be authorized to file and execute all FEMA documents. FEMA requires that the governing body of the applicant adopt a motion or resolution authorizing the filing of the application and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as FEMA may require. Neither the Regents' Rules and Regulations nor Regental Policies currently address the delegation of authority to file for federal disaster relief.

Regent Oxford and Dr. James T. Willerson, President of the U. T. Health Science Center - Houston, outlined the extent of damages to the Texas Medical Center and University of Texas component institutions, including losses estimated to be at least \$205 million at U. T. Health Science Center - Houston alone and disruption of teaching and research activities. President Willerson expressed his sincere appreciation for the support of federal and State officials and Regents in the Houston area.

3. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VII, Section 4 (Insurance for U. T. System)

Chairman Miller inquired if there was a motion regarding amendments to the Regents' Rules and Regulations, Part Two, Chapter VII, Section 4, relating to insurance for The University of Texas System. In accordance therewith, Regent Hunt moved and Vice-Chairman Romero seconded that the Regents' Rules be amended to read as set forth below:

Sec. 4. Insurance for U. T. System.

. . .

- 4.4 In the case of a catastrophic occurrence where the loss is so extensive that partial settlements in excess of \$1 million are necessary, the Chancellor is delegated authority to execute all documents related to the partial settlement or adjustment. The Board will be notified by the Chancellor of all partial settlements made in excess of \$500,000. Final settlement of claims in excess of \$1 million will require approval from the Board.
- 4.5 The Director of Business and Administrative Services will provide a summary report of insurance purchases and claim settlements to the Executive Vice Chancellor for Business Affairs on a semiannual basis.

U. T. System institutions are provided all-risk property coverage for all U. T. System buildings and their contents under a Comprehensive Property Protection Program (CPPP) authorized in November 1995. The CPPP is a combination of self-insurance and traditional commercial insurance.

When a loss occurs, the CPPP applies in three distinct layers. The first layer is the component deductible which applies per occurrence and ranges between \$100,000 and \$250,000 per component institution depending on the institution's total insured values. The second layer of the program is the CPPP Fund. If a loss exceeds the component deductible, the Fund pays the remainder of the loss until it reaches the insurance policy's annual aggregate deductible of \$5 million. A commercial property insurance policy, which carries a \$1 billion blanket limit, represents the third layer of the program.

The policy contains an annual aggregate sublimit for Flood of \$50 million. This represents the maximum amount that the insurer will pay for losses occurring in a single policy year caused by the peril of flood.

In the case of a catastrophic loss, the commercial carrier may agree to issue a partial settlement check in order to assist the U. T. System and affected component institution(s) in paying expenses associated with the loss. There may be several partial insurance settlements in excess of \$1 million made prior to the final conclusion and settlement of the claim.

Partial insurance settlements will be made in the case of the Houston, Texas, flood loss affecting the U. T. Health Science Center - Houston and U. T. M. D. Anderson Cancer Center following record rainfall associated with Tropical Storm Allison. Significant cleanup expenses have been incurred, and the component institutions have expressed an interest in receiving advance payments from the insurance company. The insurance company is willing to issue partial settlement checks as appropriate loss documentation is received. Additional partial settlements may be received in the future as additional expenses are documented. Approval of partial insurance settlements has not previously been addressed in the Regents' Rules and Regulations.

ADJOURNMENT.--Chairman Miller announced that the purpose for which this meeting was called had been completed and the meeting was duly adjourned at 9:30 a.m.

/s/ Francie A. Frederick
Counsel and Secretary to the Board

July 11, 2001