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**Susman Godfrey Concludes Successful Pro Bono
Representation of Texas Cities In TXU Coal Plants Case**

Houston, TX - Susman Godfrey L.L.P. has successfully concluded its pro bono representation of a coalition of Texas cities in challenging permit applications by TXU Corporation to build eight coal-fired power units across Texas.

On February 26, 2007, following the announcement of the proposed buyout of TXU by two private equity firms and citing a new environmental direction for the company, TXU announced that it would withdraw applications for all eight of the coal units that the coalition opposed.

The coalition, known as the Texas Clean Air Cities Coalition, includes Dallas, Houston, Fort Worth, Waco, El Paso, Plano, Arlington, Irving, and 28 other local governments across Texas. The cities were concerned about the environmental threats resulting from the large amounts of nitrogen oxides, sulfur dioxide, particulate matter, mercury, and carbon dioxide to be emitted from the proposed plants. The environmental consequences of TXU's plan became a national and international issue.

"Without Susman Godfrey, we would never have gotten the result that we did, with TXU withdrawing permit applications for all eight units that the coalition challenged," said TCACC Chair Laura Miller, Mayor of Dallas. "The aggressive, relentless, and comprehensive legal work that was done on this case in record time caused TXU to have to rethink its environmentally unfriendly plan. What Steve Susman and his team did will be remembered by the utility industry for a long time to come: people in this country will no longer accept the construction of dirty, old-technology, coal-fired power plants. Not even in Texas."

"I am proud that our law firm was able to help the cities of Texas stand up against this plan," said the coalition's lead attorney, Steve Susman. "We are pleased that TXU has announced that it will withdraw every one of the permit applications we opposed. We hope this can be a turning point in the way Texas and the entire nation address the crucial issue of greenhouse gas emissions."

For questions contact:

Steve Susman at (713) 653-7801 or Dallas Mayor Laura Miller, Chair of the Coalition, through Chief of Staff Meranda Carter Cohn at (214) 670-0656.

Background on the Case:

The permit applications for seven of the TXU units were referred to the State Office of Administrative Hearings (SOAH) in late November and early December 2006. The applications were placed on an accelerated discovery schedule, following an executive order from Governor Rick Perry expediting the hearing process.

In a period of just over twelve weeks since the referrals, Susman Godfrey overcame an initial challenge to the coalition's legal standing, engaged in extensive written discovery, took depositions of senior TXU executives and representatives of the Texas Commission on Environmental Quality, defended numerous additional depositions, submitted pre-filed written testimony from ten witnesses, and prepared for a trial expected to last three weeks and include approximately 25 witnesses.

Susman Godfrey assembled a team of eight experts from across the nation to address the consequences of TXU's plan. The coalition's experts included:

- Dr. David Allen, director of the Center for Energy and Environmental Resources at the University of Texas, who conducted air modeling to determine the likely effects of the proposed plants on ozone levels in cities across Texas;
- Dr. Ron Sahu, a recognized national expert in pollution control technology, who evaluated whether the pollution controls proposed for TXU's plants were the cleanest available;
- Dr. Dallas Burtraw, a senior economist at Resources for the Future, who evaluated whether the proposed plants were needed to meet electricity demand in Texas, and addressed the consequences the plants might have for future power generation in the state; and
- Dr. Gerald North of Texas A&M University, one of the nation's leading climate scientists, who addressed global climate change, its likely effects in Texas, and the contribution of emissions from coal-burning power plants to global warming.

Susman Godfrey and the coalition also overcame motions by TXU to prevent discovery on issues related to carbon dioxide emissions and Integrated Gasification Combined Cycle ("IGCC") technology, a cleaner method of burning coal that first converts coal into a gas. A deposition taken of a representative of ConocoPhillips by Susman Godfrey attorney Eric Mayer confirmed that vendors would back the technical feasibility of using Wyoming coal with IGCC, a point that some IGCC opponents had disputed.

The three-week hearing before two SOAH Administrative Law Judges was set to begin on February 21, 2007. On that same day, the hearing was postponed for four months following a ruling from a state trial court that the Governor's order expediting the schedule was illegal. Susman Godfrey's attorneys proceeded to argue several of the key legal issues in the case, including the question of whether carbon dioxide emissions and their effects on global climate change must be considered under the Texas Clean Air Act. The judges have not yet ruled on these issues.

Following announcement of the buyout, TXU confirmed its plan to withdraw the applications on February 26, 2007. TXU spokeswoman Kim Morgan told the *Waco Tribune-Herald* there were many factors in the decision to withdraw the applications, but said that "One factor was obviously the growing opposition, not only by environmental groups but by cities." TXU CEO John Wilder recently told the *Dallas Morning News* that even before it was approached by the private equity firms, TXU's board and management was in the process of "reshaping [the] development program to focus on a smaller number of plants."

One of the coalition's experts calculated that if the eight proposed TXU units had been built, over the lifetime of the plants (assuming a 40-year lifespan for each), these permits would have allowed TXU to emit:

- over 1 billion pounds of nitrogen oxides (which contributes to formation of ground-level ozone, a regulated pollutant);
- over 2 billion pounds of sulfur dioxide (a pollutant linked to acid rain, respiratory problems, and reduced visibility);
- over 847 million pounds of particulate matter (a pollutant linked to respiratory and other health problems); and
- over 3 billion tons of carbon dioxide (a primary cause of global warming).

Modeling studies performed by Dr. David Allen showed a significant risk that the addition of the TXU units would have placed the Waco region above federally mandated ozone standards, and would have worsened ozone problems in Austin, Tyler-Longview, and Dallas-Fort Worth. The eight units would also have emitted over 64 million tons of carbon dioxide annually, a number that exceeds the total annual carbon dioxide emissions of many entire states and nations.

Six attorneys from Susman Godfrey worked on the case on behalf of the coalition: Steve Susman in the firm's New York office; Eric Mayer in the firm's Houston office; Terry Oxford, John Turner, and Ophelia Camina in the firm's Dallas office; and Michael Diehl in the firm's Seattle office. Altogether, the firm devoted over \$2 million in time to the case.

Susman Godfrey was assisted by, and worked closely with, David Frederick and Layla Mansuri of the environmental law firm of Lowerre & Frederick in Austin (who also independently represented the City of Waco in the proceedings), as well as attorneys and staff from the City of Dallas and the City of Houston.