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Environmental Defense Fund and the Leveraged Buyout of TXU[[1]](#footnote-1)

Adam Fremeth and Margaret Loudermilk wrote this case solely to provide material for class discussion. The authors do not intend to illustrate either effective or ineffective handling of a managerial situation. The authors may have disguised certain names and other identifying information to protect confidentiality.

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TXU might as well give each of its 2.4 million customers four new Cadillac Escalades. The effect is the same in terms of global warming pollution.[[2]](#footnote-2)

—James Marston, Environmental Defense, 2006

This investment that we’re doing is going to be green in both senses of the word. We wouldn’t be doing it if we didn’t believe it was going to be good for our own investors. But it’s also a good green investment from the point of view of the climate and the environment, and that’s the ideal win-win [opportunity].[[3]](#footnote-3)

—William Reilly, Texas Pacific Group, 2007

James Marston, Texas’ regional director for Environmental Defense Fund (EDF), was on his way to a hearing about permits for new coal plants proposed by the Texas electricity provider TXU Energy (TXU) when he received a call from his boss, EDF President Fred Krupp. Krupp had just spoken with the former head of the Environmental Protection Agency, William Reilly, who was now at the private equity firm of Texas Pacific Group (TPG), asking to discuss EDF’s concerns about TXU’s plans to build 11 new coal-fired power plants in Texas.[[4]](#footnote-4)

Marston never made it to the hearing. Instead, eight hours later, he was in San Francisco meeting with representatives from TPG, the private equity firm Kohlberg Kravis Roberts & Co. (KKR), and the non-profit National Resources Defence Council (NRDC) to discuss the possibility of helping to negotiate the largest recorded leveraged buyout deal—US$45 billion—of TXU.[[5]](#footnote-5) KKR and TPG were opposed to acquiring a firm embroiled in a pitched battle with environmentalists, and claimed to be willing to make substantial concessions in order to come to an agreement.[[6]](#footnote-6)

Concerns over TXU’s proposed power plant investments had precipitated a sharp decline in the company’s stock price, which attracted the attention of KKR and TPG. The private equity firm’s typical investment strategy was to look for undervalued companies to try to turn them around. However, in the preceding months, TXU had “become the bogeyman of green activists” with a diverse coalition of opponents organized on multiple fronts against the expansion of coal-fired power plants.[[7]](#footnote-7) Sierra Club organized opposition to required regulatory approvals before the Texas Commission on Environmental Quality. Oil firm owner Albert Huddleston hired a Dallas law firm to file a federal lawsuit against one of the plants, arguing that its application violated the Clean Air Act. A variety of groups—from EDF and NRDC to coalitions of investors and Texas mayors—all vigorously campaigned against the TXU investment plan. KKR and TPG were wary of wading into such a potential quagmire of financial, legal, and reputational risk, but both companies saw the opportunity for a ground-breaking financial and environmental deal to be struck in return for the support of important environmental contingents.

For Marston and Krupp, this presented a novel opportunity to combat global warming and improve other environmental outcomes in Texas; working with TXU and private equity firms to facilitate the deal came with potential risks to EDF though. Should EDF support the buyout? If so, what concessions should it ask for in return?

Environmental Defense Fund and the Texas Campaign

Founded in 1967, EDF was one of the world’s largest environmental organizations with more than 500,000 members and 500 professional staff. EDF was widely recognized for finding market-based solutions and forming corporate partnerships in order to address environmental problems. In particular, the group was often credited with originating the idea of a cap and trade program for sulphur dioxide emissions to address acid rain in the United States. The organization had also fostered partnerships with McDonald’s to eliminate Styrofoam packaging, with FedEx to adopt cleaner and more efficient delivery trucks, and with Walmart to reduce carbon dioxide emissions, among others.

As one of the leading environmental non-governmental organizations (ENGOs) in the United States, EDF would often take progressive and demanding positions on domestic and international matters. The group separated its activities among four pillars: (1) stabilizing the climate, (2) preserving natural systems—land, water, and wildlife, (3) protecting our health, and (4) safeguarding the oceans. In 2006, EDF funded its activities with a $72 million budget that was primarily funded through direct public support. These funds came through grants from large foundations (including the William and Flora Hewlett Foundation), major gifts from affluent individuals, and personal memberships (see Exhibit 1).[[8]](#footnote-8)

EDF stressed how it took a unique approach to developing new solutions for tough problems. In particular, it emphasized “win-win” opportunities that would lead to both economic growth and a healthy planet.[[9]](#footnote-9) Central to this strategy was a cadre of doctoral scientists and economists focused on developing constructive alternatives. This group of experts distinguished EDF from many of its peers by allowing it to clearly quantify the benefits of improving efficiency and reducing waste, thereby promoting cooperation with other ENGOs and firms (see Exhibit 2).

A major focus of EDF’s efforts to combat global warming was the U.S. electric utility sector. Electricity generators were responsible for 33 per cent of greenhouse gas emissions in 2006,[[10]](#footnote-10) primarily from fossil fuel combustion. As a result, EDF had been engaged in an extensive activist campaign against the planned construction of 11 new coal plants by Texas electricity provider TXU. TXU had proposed a five-year, $10 billion investment in conventional coal-fired power plants to address a projected energy shortage in Texas in the coming decade. The combined emissions of these plants were estimated to total 78 million tons of carbon dioxide per year. Permission for the project had already been fast-tracked by Governor Rick Perry and, if completed, would make TXU the third most polluting utility in the United States.[[11]](#footnote-11)

EDF sought for TXU to meet its energy needs instead through a combination of renewable power generation, energy efficiency measures, and the use of new, cleaner coal gasification power plants. Efforts to engage TXU management in a constructive dialogue on alternative plans were rebuffed, leaving EDF to adopt a more confrontational approach. In conjunction with the NRDC, a coalition of city mayors, ranchers, and Texas consumers, EDF attacked the plan in the media on multiple fronts for its potential effects on global warming, human health, and even electricity rates. As EDF climate and air expert Jim Marston said, “Essentially, the company plans to generate cheap, dirty, coal-fired electricity, and sell it to customers for the price of cleaner, more expensive natural gas-fired electricity. It’s like building a Pinto and selling it as a Prius.”[[12]](#footnote-12)

A central part of the strategy was a letter writing campaign, signed by 50 environmental groups and nearly 50,000 EDF members that demanded the utility reconsider the project and act responsibly on global warming pollution. To target consumers, this activist campaign also used television and print ads that highlighted the dishonesty in TXU’s claims (see Exhibit 3). It appeared that the campaign was garnering the attention it sought: the stock price for TXU had dropped significantly from the start of the campaign in October 2006 (see Exhibit 4).

In addition to its public activist campaign, in October 2006, EDF had filed a state district court lawsuit against the Texas Commission on Environmental Quality and the State Office of Administrative Hearings. In the suit, EDF charged that the Texas Commission on Environmental Quality had failed to follow its own rules as well as those of the *Clean Air Act* in issuing permits for the proposed TXU plants.[[13]](#footnote-13) EDF aggressively fought the construction of the 11 proposed power plants through legal and regulatory means and in the court of public opinion, while TXU steadfastly maintained that the investment was both necessary to meet Texans’ energy needs and was also the best way to do so. Yet, what really was the outlook for demand in the Texas electricity market, and was coal-fired generation the best way for TXU to meet that demand?

TXU and the Texas Electricity Market

In 2006, the state of Texas was home to approximately 23.5 million people, or about 8 per cent of the U.S. population. Through the early 2000s, the Texan economy grew at an exceptional rate, and three of the fastest growing cities in the United States (Houston, Austin, and San Antonio) were located in Texas. In an effort to keep up with this level of growth and offer benefits to consumers, the Texas electricity market had been deregulated with initial reforms beginning in 1999, with the passage of multiple amendments to the state’s public utility code. This drawn-out process was not completed until January 2007.

Deregulation was intended to create a competitive market with lower prices for consumers because it introduced competition in both the generation of electricity and its retail distribution. “Competition in the electric industry will benefit Texans by reducing rates and offering consumers more choices,” said Governor George Bush upon signing deregulation into law.[[14]](#footnote-14) In contrast to other U.S. states, the Texas experience with deregulation was relatively successful in that new firms entered the market and customers were given new choices for how and from whom they could purchase electricity. However, rates continued to increase, and many of the incumbent utilities continued to play a dominant role in generation, transmission, and distribution.

TXU was a Dallas-based energy company, founded in 1944. While the company had global business interests, the majority of its revenues and customers came from the state of Texas. In 2006, TXU had more than 2.1 million customers and 18,100 megawatts (MW) of generation in Texas, including 2,300 MW of nuclear and 5,800 MW of coal-fueled generation capacity.[[15]](#footnote-15) This made it the single largest provider of energy to the Texas wholesale market. The company had been undergoing a substantial transformation in response to the ongoing deregulation of the Texas electricity market, divesting under-performing businesses as well as changing its pricing structure and making improvements to customer services (see Exhibit 5).

TXU’s plan to invest more than $10 billion in 11 new coal-fired power plants over five years was contrary to the prevailing trend toward more environmentally friendly corporate strategies—even among major utilities. Both Duke Energy and Pacific Gas and Electric called on government to regulate greenhouse gas emissions from burning fossil fuels in 2007.[[16]](#footnote-16) Yet TXU argued that the additional power generation capacity was desperately needed to meet rising demand in Texas, and that coal was the cheapest and most reliable alternative to meet that need (see Exhibits 6 and 7). The Electric Reliability Council of Texas (ERCOT) had set a 12.5 per cent margin as a reliability cushion that TXU had been working with. Regarding the impact on climate from burning coal to generate power, a TXU spokesperson stated that climate change was an “important long-term issue” and that a technology would soon be developed to capture and store carbon from the plants.[[17]](#footnote-17) TXU also claimed that the new power plants would exceed current federal regulations for regulated emissions and mercury. However, environmental activists and other stakeholders were unswayed, maintaining that TXU would be satisfying only the mandated provisions of the Clean Air Act ahead of their effective dates. Thus, in February 2007, TXU found itself in a pitched battle in the media, regulatory hearings, and state and federal courts—not to mention with shareholders—that had bid down the value of the company’s stock.

Enter Private Equity

The decline in TXU’s stock price, combined with the necessity to build new generating capacity in a fast-growing region of the country, sparked the interest of investors with a track record of turning around undervalued companies. In January 2007, the private equity firms TPG and KKR had privately approached C. John Wilder, TXU’s chief executive officer, with an offer to purchase the firm and take it private through a leveraged buyout, even though the potential to scale back the controversial coal plants had not been discussed at that time.

Both private equity firms had recently been spurned in their attempts to purchase electric utilities, and TXU offered another opportunity to enter the energy sector. In the case of KKR, the failed attempt involved a $3 billion offer to purchase Unisource Energy Corporation in Arizona in December 2004. The deal had been rejected by the Arizona Corporation Commission, which had determined that the deal did not meet the public interest standard and identified risks of increased debt and undue power concentrated in the new owner. Similarly, TPG had attempted to purchase Portland General Electric in Oregon for $2.35 billion. That deal faced severe opposition from local corporate, consumer, and environmental groups, and ultimately failed on similar grounds in March 2005 for not meeting the public interest standard.

Despite being shut out in the electricity sector, the two private equity firms had a long track record of similar types of leveraged buyouts. KKR, in particular, was seen as the grandfather of private equity. The firm had been established in 1976, and was still led by co-founding members Henry Kravis and George Roberts, who were actively involved in the TXU transaction. KKR claimed it had completed more than 160 transactions with an aggregate value of over $410 billion, and in September 2007, the company’s equity investments were valued at more than $86 billion.[[18]](#footnote-18)

However, the TXU deal was unique in a number of important ways. First, it would be the largest deal ever transacted, with a value of $45 billion. The previous record was held by KKR’s 1989 purchase of RJR Nabisco, Inc., the deal made famous by New York Times Bestseller, *Barbarians at the Gate*. Second, the deal was politically charged with an ongoing, broad-based opposition campaign and the necessity for the Texas state government to lend its support—a condition that had eluded both firms in their earlier efforts to purchase electric utilities. Handling these challenges would require the two firms to seek extensive support and build coalitions to bring the deal to fruition. On the one hand, setting up the financing did not seem to be much of a constraint, because investment banks, including Goldman Sachs, Morgan Stanley, Lehman Brothers, Citigroup, and J. P. Morgan Chase, were all willing to take small stakes and help finance the debt.[[19]](#footnote-19) On the other hand, marshalling the support of the ENGOs and politicians could take much more convincing and potentially significant concessions. Even though it was clearly understood that meeting the environmental and societal demands would be a prerequisite, these groups and politicians did not want to be seen as being on the “wrong side of history.”[[20]](#footnote-20)

NEGOTIATING WITH THE BARBARIANS

While the meeting with the private equity firms came as a surprise to Marston and Krupp, working cooperatively with large corporations was not new to EDF.[[21]](#footnote-21) The organization’s mission statement invoked creating practical solutions that won lasting economic and social support because they were nonpartisan, cost effective, and fair. This objective had recently manifested itself in EDF’s collaboration with FedEx to adopt hybrid trucks. EDF had approached FedEx with the goal of transforming truck technology and together the two organizations had developed ambitious performance goals and the development of new powertrains. The technology was then adopted by Coca-Cola and the U.S. Postal Service. Such targeted initiatives would allow for change that would be welcomed by the membership. The TXU situation was quite different from EDF’s prior efforts though, and EDF would need to consider (1) whether this was a collaboration that it wanted to undertake and, if so, then (2) what concessions EDF would be able to demand in exchange for its support.

The decision to collaborate with the private equity firms in an effort to support the sale of TXU was not straightforward. If the transaction went ahead, this would be the largest leveraged buyout in history for one of the most polluting electric utilities in the United States, against which EDF had fought an aggressive activist campaign. Making an about-face in its position could have far reaching implications for EDF. The “sudden greenery” of KKR and TPG may have been a thinly veiled attempt to ward off the public and political opposition that they had previously encountered in their efforts to enter the electricity sector.[[22]](#footnote-22) If this was the case, then EDF may be seen as complicit if it simply provided “green credit” to these financiers and worked with the TXU executives that it had once targeted.

EDF needed to consider how this decision would be viewed by its major donors and members; the organization relied heavily on their ongoing support and that of potential, new supporters in the future. Similarly, the campaign against TXU had been a joint effort with many local and national ENGOs. EDF would continue to need the support of these groups, and would not want to jeopardize its position and credibility in this tight-knit community. Finally, these private equity financiers were well known for extracting untapped value from their acquisitions, but without further information as to what they intended, EDF was left with a significant “known unknown” that it would need to struggle with.

DECISION

Should EDF move ahead with supporting this acquisition, Marston and Krupp would need to carefully assess what they could negotiate in exchange for EDF’s support. Careful consideration would need to be placed on what the group could reasonably agree to and what may be too difficult to attain. As a starting point, EDF had developed, as part of its activist campaign, an alternative to TXU’s $10 billion plan for 11 new coal-powered generating plants. EDF’s clean energy scenario relied heavily on conservation, newer coal-generating technology, and renewable energy. With regards to conservation, EDF had proposed reducing peak demand by increasing Texas’ energy efficiency programs fivefold, and bringing the state in line with best practices set by the Environmental Protection Agency. This plan would eliminate the need for five of the coal-generating plants, and would come at an estimated annual cost of approximately $40 million.[[23]](#footnote-23)

The technology that EDF was proposing was a coal gasification plant that converted coal to gas (commonly referred to as “clean coal”). That gas was then burned in a turbine, where pollutants were removed before the fuel was burned, substantially reducing emissions. The technology had a limited track record with practically no utility-scale plants in operation. Further, another utility had estimated construction costs of a 700MW gasification plant at close to $1.4 billion, and operating costs would require a 15 per cent premium over a traditional coal plant.[[24]](#footnote-24) Under EDF’s clean energy scenario, TXU would need a plant of this size in both 2010 and again in 2011 to meet reliability needs, even though cheaper interruptible power alternatives could be possible. These alternatives might come in the form of natural gas peaking plants that could easily be constructed for $350 million each.[[25]](#footnote-25)

In addition, Texas had a burgeoning wind energy sector and EDF had called for TXU to at least meet the stipulations set out by Texas’ recently modified Renewable Portfolio Standard, which required 5,000 MW of statewide renewable power by 2015.[[26]](#footnote-26) In 2006, TXU had procured wind power from independent power producers with a capacity of 704 MW, but planned to more than double that (1,500 MW).[[27]](#footnote-27) While this plan would continue to place TXU among the top five utilities in the United States for renewable energy capacity, it was well under 10 per cent of the overall generation within the firm’s portfolio.[[28]](#footnote-28)

Beyond the elements of its clean energy scenario, EDF could have chosen to pursue even more ambitious concessions. The opportunities were endless but could involve costly operational changes, including scaling back or eliminating the construction of coal-burning plants in Texas or elsewhere (e.g., TXU planned construction in Virginia and Pennsylvania). Other options for negotiation could be retrofitting existing plants, funding further conservation efforts, committing further to renewable power, or funding the installation of time-of-use metering.

A second category of options would include higher-level concessions such as allowing EDF to sit on TXU’s board of directors, funding a research institute to combat global climate change, creating an independent environmental audit committee to oversee TXU’s progress, committing to an aggressive greenhouse gas reduction target, or establishing a commitment by TXU to lobby for federal legislation for a mandatory cap and trade system on greenhouse gases. Finally, there could be scope for EDF to extract concessions from TPG and KKR’s other operations. These firms owned a diverse portfolio of companies, and each company had its own environmental impacts.

Marston and Krupp had a lot to consider, and it was not clear how far the private equity firms would be willing to budge in an effort to consummate this deal. How much “greenmail” were KKR and TPG willing to pay before abandoning the acquisition, and what was EDF’s best chance to influence the outcome of TXU’s generation expansion? Success might mean that EDF could redeploy this strategy to other deals and create a new standard for similar transactions. However, the options were not ideal, and EDF wanted to avoid being taken advantage of or seen to be selling out. Some of EDF’s supporters would not be satisfied by anything other than the cancellation of all 11 proposed plants, and EDF could face substantial reputational risk by backing the deal. All of these factors were in play as Marston began the meeting with the other representatives in a conference room overlooking Alcatraz and the San Francisco Bay.[[29]](#footnote-29)

Exhibit 1: EDF sources of operating sUpport and revenue

Source: Environmental Defense: Finding the Ways That Work, *2006 Annual Report*, 30, accessed January 5, 2017, www.edf.org/sites/default/files/5752\_2006AnnualReport\_0.pdf.

Exhibit 2: Peer Environmental Non-Government Organizations

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Organization** | **Mission & Objectives** | **Revenue (US$)** | **Membership** | **Recent Projects** |
| **Greenpeace International** | Greenpeace is an independent campaigning organization that acts to change attitudes and behaviours, to protect and conserve the environment, and to promote peace, by   * investigating and confronting environmental abuse; * challenging the political and economic power of those who can effect change; * driving environmentally responsible and socially just solutions that offer hope for this and future generations; and * Inspiring people to take responsibility for the planet. | 140,940,286 | * 1. million | * Fighting the deforestation of the Amazon, which was being used for soya farming, by partnering with McDonald’s to limit the company’s purchases from this source. |
| **Sierra Club** | The mission of the Sierra Club is to advance the preservation and protection of the natural environment by empowering the citizenry, especially democratically based grassroots organizations, with charitable resources to further the cause of environmental protection. | 29,386,174 | 756,900 | * Legal action against the Texas government to analyze the environmental impacts of slant drilling in Big Thicket National Preserve in Southeast Texas * Fought the construction of coal- burning power plants in Illinois |
| **World Wildlife Foundation (WWF) International** | WWF’s mission is to stop the degradation of the planet’s natural environment and to build a future in which humans live in harmony with nature, by   * conserving the world’s biological diversity; * ensuring that the use of renewable natural resources is sustainable; and * promoting the reduction of pollution and wasteful consumption. | 109,495,000 | 5 million | * Renewed agreement with Nokia to build employee environmental awareness and include environmental sustainability in its normal business practices |

Sources: Greenpeace International, *Annual Report 2006*, June 10, 2007, accessed November 17, 2016, www.greenpeace.org/international/Global/international/planet-2/report/2007/11/annual-report-06.pdf; WWF: For a Living Planet, *WWF Annual Review 2006*, accessed November 17, 2016, http://d2ouvy59p0dg6k.cloudfront.net/downloads/wwf\_ar06\_final\_28feb.pdf; The Sierra Club Foundation, *Annual Report 2006*, accessed November 18, 2016, https://www.sierraclubfoundation.org/sites/sierraclubfoundation.org/files/2006%20AnnualReport.pdf.

Exhibit 3: EDF advertisement

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Source: Colin Rowan, “Ad Campaign Takes Aim at TXU's Dirty Coal Plants,” EDF: Environmental Defense Fund, October 24, 2006, accessed October 15, 2016, https://www.edf.org/news/ad-campaign-takes-aim-txus-dirty-coal-plants.

Exhibit 4: TXU stock price

Source: Derived based on data from *CRSP US Stock Database* © 2016, Center for Research in Security Prices (CRSP), The University of Chicago Booth School of Business.

Exhibit 5: TXU Financial and Operating Highlights

|  |  |  |
| --- | --- | --- |
|  | 2006 | 2005 |
| Revenues (US$ millions) | $10,856 | 10,662 |
| Operational Earnings (US$ millions) | $2,592 | 1,628 |
| Normalized Free Cash Flow (US$ millions) | $2,679 | 1,798 |
| Earnings per Share | $5.55 | $3.35 |
| Dividend Declared (per share) | $1.670 | 1.256 |
| EBITDA/Interest (ratio) | 6.4 | 4.9 |
| Debt/EBITDA (ratio) | 2.1 | 3.1 |
|  |  |  |
| Retail Electricity Sales Volumes (GWh) | 52,050 | 58,176 |
| Total Retail Electricity Customers (thousands) | 2,182 | 2,325 |
| Employees | 7,262 | 7,615 |

Note: EBITDA = earnings before interest, tax, depreciation and amortization; GWh = gigawatt hours

Source: TXU Corporation, *Next Horizon: TXU Annual Report 2006,* March 1, 2007, accessed October 24, 2016, https://www.energyfutureholdings.com/wp-content/uploads/2014/10/txu2006ar.pdf.

Exhibit 6: Texas Electric Demand and Reserve Margin Analysis

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 2006 | 2007 | 2008 | 2009 |  | 2011 |
| Generation Capacity (MW) | 70,498 | 71,319 | 70,435 | 70,374 | 70,950 | 70,987 |
| ERCOT Projected Demand (MW) | 60,544 | 62,110 | 63,206 | 64,838 | 66,436 | 67,922 |
| ERCOT Target Reserve Margin | 12.5% | 12.5% | 12.5% | 12.5% | 12.5% | 12.5% |
| ERCOT Projected Reserve Margin | 16.4% | 14.8% | 11.4% | 8.5% | 6.8% | 4.5% |
| Projected Reserve Margin After TXU Buildout of 11 New Coal Plants | 16.4% | 14.8% | 11.4% | 10.7% | 21.7% | 21.6% |

Source: Environmental Defense Fund, “Reserve Margin Crisis? Coal Isn’t the Right Answer for Texas,” accessed January 5, 2017, https://web.archive.org/web/20061202072545/http://www.environmentaldefense.org/documents/5586\_

FactSheet\_Reserve%20Margin.pdf.

Exhibit 7: Texas electric power delivered fuel prices for coal, petroleum, natural gas (US$ per million British Thermal Units)

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
| Coal | 1.23 | 1.33 | 1.26 | 1.25 | 1.31 | 1.29 | 1.39 |
| Petroleum | 6.17 | 5.56 | 2.00 | 4.23 | 1.71 | 2.48 | 2.67 |
| Natural Gas | 4.16 | 4.21 | 3.32 | 5.28 | 5.77 | 7.83 | 6.45 |

Source: U.S. Energy Information Administration, Forms EIA-423 and EIA-923.

1. This case has been written on the basis of published sources only. Consequently, the interpretation and perspectives presented in this case are not necessarily those of Environmental Defense Fund or any of its employees. [↑](#footnote-ref-1)
2. “TXU Plan Threatens Progress on Climate: Proposal for Building 11 Dirty Coal-Fired Plants across Texas could Wipe out Other States’ Cuts,” Environmental Defense: Finding the Ways That Work, August 16, 2006, accessed October 12, 2016, https://web.archive.org/web/20061202221613/http://www.environmentaldefense.org/article.cfm?contentID=5404&campaign=583. [↑](#footnote-ref-2)
3. Oriana Zill de Granados, “The TXU Takeover: A Dissection of a Deal,” Frontline Politics, April 24, 2007, accessed October 19, 2016, www.pbs.org/wgbh/pages/frontline/hotpolitics/reports/txu.html. [↑](#footnote-ref-3)
4. Environmental Defense, “TXU Buyout: Anatomy of a Deal,” March 6, 2007, accessed January 27, 2017, https://web.archive.org/web/20070513083530/http://environmentaldefense.org/article.cfm?contentID=6028 [↑](#footnote-ref-4)
5. All currency amounts are in US$ unless otherwise specified; “TXU Buyout: Anatomy of a Deal,” Environmental Defense: Finding the Ways That Work, March 6, 2007, accessed October 19, 2016, https://web.archive.org/web/20070513083530/http://environmentaldefense.org/article.cfm?contentID=6028. [↑](#footnote-ref-5)
6. Andrew Ross Sorkin, “A Buyout Deal That Has Many Shades of Green,” *The New York Times*, February 26, 2007, accessed October 18, 2016, www.nytimes.com/2007/02/26/business/26coal.html. [↑](#footnote-ref-6)
7. “Eco-Warriors at the Gate: Does the Record-Breaking Purchase of TXU Signal a New Strategy for Private Equity?,” *The Economist*, March 1, 2007, accessed October 19, 2016, www.economist.com/node/8776388. [↑](#footnote-ref-7)
8. Individual memberships could be purchased with a tax-deductible donation of any amount, with suggested donations of $25, $35, or $50. [↑](#footnote-ref-8)
9. Environmental Defense: Finding the Ways That Work, *2006 Annual Report*, accessed January 5, 2017, www.edf.org/sites/default/files/5752\_2006AnnualReport\_0.pdf. [↑](#footnote-ref-9)
10. “Greenhouse Gas Inventory Data Explorer,” EPA: United States Environmental Protection Agency, April 30, 2015, accessed November 9, 2016, https://www3.epa.gov/climatechange/ghgemissions/inventoryexplorer/. [↑](#footnote-ref-10)
11. “How Environmentalist Shaped TXI Deal,” NPR February 27, 2007, accessed January 27, 2017, http://www.npr.org/templates/story/story.php?storyId=7615616 [↑](#footnote-ref-11)
12. “TXU Plan Threatens Progress,” op. cit. [↑](#footnote-ref-12)
13. Daniel Mottola, “Coal Goes to Court: Lawsuits are Flying to Stop Dirty Power Plants,” *The Austin Chronicle*, January 19, 2007, accessed October 20, 2016, www.austinchronicle.com/news/2007-01-19/437363/. [↑](#footnote-ref-13)
14. Dylan Baddour, “Texas’ Deregulated Electricity Market, Explained,” *Houston Chronicle: The Explainer*, June 8, 2016, accessed October 24, 2016, www.houstonchronicle.com/local/explainer/article/texas-electric-deregulation-ERCOT-TCAP-7971360.php. [↑](#footnote-ref-14)
15. TXU, *Next Horizon: TXU Annual Report 2006,* March 1, 2007*,* accessed October 24, 2016, https://www.energyfutureholdings.com/wp-content/uploads/2014/10/txu2006ar.pdf. [↑](#footnote-ref-15)
16. Marc Gunther, “TXU Faces a Texas Coal Rush,” *Fortune*, February 5, 2007, accessed October 19, 2016, http://archive.fortune.com/magazines/fortune/fortune\_archive/2007/02/19/8400164/index.htm?postversion=2007020507. [↑](#footnote-ref-16)
17. Ibid. [↑](#footnote-ref-17)
18. KKR’s holdings included Toys “R” Us Inc., Dollar General Corporation, Hospital Corporation of America (health care giant), U.S. Foods (a large food distributor), Masonite International (doors), Sealy Corporation (mattresses), First Data Corporation (credit cards), and Nielsen Company (television ratings); Stephen Foleyin, “KKR Puts Crisis Aside in Surprise $10 billion Float,” Independent, July 27, 2008, accessed January 27, 2017. [↑](#footnote-ref-18)
19. Sorkin, op. cit. [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. “Eco-Warriors at the Gate,” op. cit. [↑](#footnote-ref-22)
23. Environmental Defense: Finding the Ways That Work, *Reserve Margin Crisis? Coal Isn’t the Right Answer for Texas,* November 3, 2006, accessed October 24, 2016, http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/33262\_

    60\_531392.pdf. [↑](#footnote-ref-23)
24. “Fact Sheet: ‘Clean Coal’ Power Plants,” Energy Justice Network, April 2007, accessed November 15, 2016, www.energyjustice.net/files/coal/igcc/factsheet-long.pdf. [↑](#footnote-ref-24)
25. Cathy Proctor, “Xcel Pushing Higher-Tech Coal Plant,” *Denver Business Journal*, January 15, 2006, accessed November 15, 2006, www.bizjournals.com/denver/stories/2006/01/16/story6.html. [↑](#footnote-ref-25)
26. Environmental Defense, “Better, More Responsible Choices Are Available,” January 5, 2017, accessed November 15, 2016, https://web.archive.org/web/20061201041646/http://www2.environmentaldefense.org/documents/5426\_TXU\_FactSheet\_Alternatives.pdf. [↑](#footnote-ref-26)
27. TXU, *Next Horizon,* op. cit. [↑](#footnote-ref-27)
28. Other states had required their electric utilities to produce well over 15 per cent of their electricity from renewable power, including California (with a 33 per cent target), Connecticut (27 per cent), Maine (40 per cent), and New Mexico (20 per cent). [↑](#footnote-ref-28)
29. Sorkin, op. cit. [↑](#footnote-ref-29)