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Public Utility Commission of Texas

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Commission Staff -- Electric Division
Commission Staff -- Legal Division

FROM: Mark Gentle
Administrative Law Judge
Policy Development Division

RE: Docket No. 26185 – *Application of Guadalupe Valley Electric Cooperative, Inc. for a Certificate of Convenience and Necessity (CCN) for a 138-kV Transmission Line in Guadalupe County, Texas*

NOTICE OF APPROVAL

This Notice approves the application of Guadalupe Valley Electric Cooperative, Inc. (GVEC) for a certificate of convenience and necessity to construct a 138-kV transmission line in Guadalupe County, Texas. The docket was processed in accordance with applicable statutes and Commission rules. Commission Staff recommended approval of this application. The application is hereby approved.

I. Findings of Fact

Procedural History

1. On June 28, 2002, Guadalupe Valley Electric Cooperative, Inc. (GVEC) filed an application for a certificate of convenience and necessity to construct a 138-kV transmission line in Guadalupe County.
2. On July 8, 2002, Order No. 1 was filed requesting clarification of the proposed transmission line project.
3. On July 11, 2002, in response to Order No. 1, GVEC filed additional information regarding the transmission line project.



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4. On July 15, 2002, Order No. 2 was filed requiring Staff to comment on the sufficiency of the application and proposed notice and GVEC to provide proof of notice and answers to certain issues related to potential options to the proposed project.
5. On July 16, 2002, Mr. Gordon Land filed a comment letter opposing the proposed transmission line route.
6. On July 18, 2002, in response to Order No. 2, GVEC filed its responses relating to the potential options to the proposed project and affidavits verifying completion of notice.
7. On July 29, 2002, Mr. James A. Bargfrede filed a comment letter opposing the proposed transmission line route four.
8. On August 5, 2002, Staff filed its response to Order No. 2 regarding the sufficiency of the application and proposed notice.
9. On August 5, 2002, the ALJ sent letters to Mr. Gordon Land and Mr. James A. Bargfrede explaining ways in which to participate in this docket. No responses were filed and interventions were not granted.
10. On August 5, 2002, Mesquite Pass Farms filed a comment letter opposing the proposed transmission line routes one, four, and six.
11. On August 7, 2002, Mr. and Mrs. Sandy and Richard Mechler filed a letter opposing the proposed transmission line route.
12. On August 7, 2002, Ms. Sarah H. Watson filed a letter opposing the proposed transmission line routes one, four, and six.
13. On August 9, 2002, Ms. Caroline F. Wyatt filed a request for intervention in this proceeding.
14. On August 12, 2002, the ALJ sent letters to Mesquite Pass Farms, Mr. and Mrs. Sandy and Richard Mechler and Ms. Sarah H. Watson explaining ways in which to participate in this proceeding. No responses were filed and interventions were not granted.
15. On August 13, 2002, Order No. 4 was filed scheduling a prehearing conference and granting intervention to Ms. Wyatt.
16. On August 15, 2002, Ms. Irma Wathen and Mr. James F. Wathen filed comment letters opposing the proposed transmission line routes six and seven.
17. On August 15, 2002, Ms. Karen Dietert filed a comment letter opposing the proposed transmission line route one and stated she preferred route four.

18. On August 15, 2002, Mr. Paul H. Donshach filed a comment letter opposing the proposed transmission line project.
19. On August 21 and 22, 2002, the ALJ sent letters to Mr. James F. Wathen, Ms. Irma Wathen, Ms. Karen Dietert, Mr. Paul Donshach, and Mr. Lorenzo Williams explaining ways in which to participate in this docket. No responses were filed and no interventions were granted.
20. On August 26, 2002, GVEC filed an affidavit verifying completion of corrected notice.
21. On August 29, 2002, Order No. 5 - Prehearing Order was filed addressing the sufficiency of the application and notice. A procedural schedule was established in this order.
22. On September 23, 2002, Ms. Betty Jo Parker and Mr. Christopher A. Parker filed motions to intervene. Ms. Betty Jo Parker is an affected landowner. Mr. Christopher A. Parker verified through a Power of Attorney filed on October 10, 2002 that he is authorized to handle Ms. Betty Jo Parker's affairs.
23. On October 4, 2002, Ms. Betty Jo Parker's motion to intervene was granted.
24. On October 9, 2002, Order No. 9 was filed granting Ms. Caroline Wyatt's request to withdraw as a party to this proceeding. Her letter of September 27, 2002 requesting to withdraw as a party was attached to this order.
25. On October 17, 2002, Order No. 10 was filed granting Mr. Christopher A. Parker's motion to intervene and modifying the procedural schedule.
26. On November 15, 2002, Ms. Betty Jo Parker and Mr. Christopher A. Parker filed letters requesting to withdraw as intervenors in this proceeding. Both stated they discussed the project with GVEC and requested to withdraw as intervenors. However, Mr. Christopher A. Parker requested to be listed as a protestor in this proceeding.
27. On November 15, 2002, Staff filed its recommendation for approval of GVEC's application. Staff stated that GVEC had adequately addressed the factors described in § 37.056 of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-64.158 (Vernon 1998 and Supp. 2003)(PURA) and recommended that GVEC be ordered to follow measures to mitigate construction impacts.
28. On November 19, 2002, Ms. Betty Jo Parker's and Mr. Christopher A. Parker's requests to withdraw as intervenors were granted.

29. On November 22, 2002, GVEC filed a response to Staff's recommendation stating it agreed with Staff's recommendation and proposed ordering paragraphs.

Notice

30. Notice of the application was published in the *Texas Register* on July 26, 2002.
31. GVEC complied with all notice requirements of P.U.C. PROC. R. 22.52(a).

Evidence

32. The following items are admitted into evidence: a) GVEC's application filed on June 28, 2002; b) GVEC's response to Order No. 1 filed on July 11, 2002; c) GVEC's response to Order No. 2 filed on July 18, 2002; d) Staff's response to Order No. 2 filed on August 5, 2002; e) GVEC's affidavit verifying completion of corrected notice filed on August 26, 2002; f) Staff's final recommendation for approval filed on November 15, 2002; and g) GVEC's response to Staff's recommendation filed November 22, 2002.

Project Description

33. GVEC will construct 14.60 miles of overhead transmission line. Of the 14.60 miles of transmission line, 3.31 miles will be constructed in parallel to the existing single-circuit transmission line. The new transmission line will be designed to be able to carry up to 138,000 volts. However, at the initial operation the conductor will only carry 69,000 volts. The new transmission line will have the capacity of carrying 920 amperes of current and 220 megavolt-amperes (MVA) of apparent power. The 138,000 volt transmission line will begin at a point on the previously certified Capote to Hickory Forest 138,000 volt transmission line, and it will end at the New Berlin Substation. The right-of-way (ROW) for the transmission line project will be between 50 to 100 feet wide.

Need for the Proposed Construction

34. GVEC explained that without the transmission line, between the existing Hickory Forest and New Berlin Substations, contingencies in the area will continue to threaten the integrity of the transmission system and its ability to provide a stable and acceptable voltage to growing loads in the GVEC electric system. Also, if the existing transmission

system is allowed to operate in its present condition, public safety and property will be at risk due to inadequate line-to-ground clearances that is caused by excessive overloading. Over the long-term, a continuation of excessive conductor loading could lead to irreversible damage to transmission circuits in the area and to extended customer service interruptions due to equipment failure. Finally, continued development in the area will place more customers at risk of an extended power interruption due to an outage on the common structure double-circuit transmission line that now supplies the New Berlin Substation.

Project Alternatives

35. GVEC evaluated five alternatives to the project and they are as follows:

- a) Develop the distribution system infrastructure sufficient to transfer load from the problem areas to neighboring substations at McQueeney and Geronimo. The estimated capital cost of this alternative is \$9,362,000. Because this alternative is cost prohibitive and contains inherent weaknesses, it was rejected.
- b) Deploy distributed generation at the New Berlin and Hickory Forest Substations. Approximately a total of 41,000 kilowatts of power is required to alleviate overloading and voltage problems. The estimated total cost for distributed generation is \$14,350,000. Because this alternative is cost prohibitive, it was rejected.
- c) Construct approximately 17 miles of a new 69-kV transmission line between the Hickory Forest and Lavernia Substations. The estimated capital cost of this alternative is \$4,352,000. With this alternative, the New Berlin Substation will still be at risk of a total interruption of electric service in the event of the loss of the common structure double-circuit that now supplies this substation. Because the effects of this contingency are not mitigated, this alternative was rejected.
- d) Construct approximately 16 miles of a new 69-kV transmission line between the Hickory Forest and Wilson Tap. The estimated capital cost of this alternative is \$4,986,000. With this alternative, the New Berlin Substation will still be at risk of a total interruption of electric service in the event of the loss of the common structure double-circuit that now supplies this substation. Because the effects of this contingency are not mitigated, this alternative was rejected.
- e) Construct approximately 14.60 miles of a new a 138-kV transmission line that will initially operate at 69-kV between the Hickory Forest and New Berlin Substations. The estimated capital cost of this alternative, which includes the substation and transmission line cost, is \$3,920,800. This alternative provides the greatest benefit to the transmission system. Because this option provides the greatest enhancement to

transmission system performance, and its cost is comparable to the other viable transmission options that were considered, it is the recommended alternative.

According to Staff's recommendation, GVEC has demonstrated that the fifth alternative (e), Route Four, provides a better technical and economical solution than other considered alternatives for the proposed transmission line project.

Routing Alternatives

36. PBS&J, a consultant for GVEC, explained that although all alternative routes evaluated in the environmental study report are environmentally acceptable routes, it was the consensus of PBS&J evaluators that route number four was the most favorable alternative after evaluating the project criteria. PBS&J explained that the preferred route was based on potential environmental impacts, engineering constraints, public input/community values, costs, and landowner/agency concerns and preferences.

Although route number four is slightly more expensive than route number one, it provides additional environmental benefits. Some the environmental benefits for choosing route number four as a preferred alternative route instead of route number one are that it contains one less habitable structure, parallels more existing transmission line, highway, and pipeline right-of-way, does not cross any cropland, crosses fewer 100-year floodplains and woodland, and parallels fewer streams.

Project Costs

37. The total estimated construction cost of GVEC's project for the 138-kV transmission line and the substation facilities is \$3,920,800. These estimated costs include right-of-way easement and fee, materials and supplies, stores, engineering and engineering consulting, labor and transportation.

Community Values

38. The proposed transmission line will have minimal adverse impacts on community values.
39. The preferred route has 5 habitable structures within 200 feet of the proposed transmission line. There are no churches, hospitals, or nursing homes located within 200 feet of the centerline of the proposed transmission line.

40. No commercial AM radio transmitters are located within 10,000 feet of the centerline. No FM radios, microwave, or other similar electronics installations located within 2,000 feet of the center line of the proposed transmission project.
41. There are no FAA registered airstrips located within 10,000 feet of the centerline of the proposed transmission line.
42. There are no pastures or cropland irrigated by traveling irrigation systems that are traversed by the proposed project.

Park and Recreational Areas

43. There are no parks or recreational areas owned by a governmental body, organized group, club, or church located within 1,000 feet of the centerline of the proposed project.

Historical and Archeological Values

44. Responses received from the Federal Emergency Management Agency (FEMA), the Texas Historical Commission (THC), the United States Environmental Protection Agency (EPA), Texas Department of Transportation (TxDOT) Environmental Affairs Division and Aviation Division, the Texas Parks & Wildlife Department (TPWD), the United States Fish and Wildlife Service (USFWS), and the Texas Natural Resource Conservation Commission (TNRCC) did not raise serious issues that would prevent construction of the proposed line.
45. There are no recorded historical or archeological sites located within 1,000 feet of the proposed transmission route center line. This information was obtained as a result of a literature review and records search at the THC and the Texas Archaeological Research Laboratory at the University of Texas at Austin. This search also revealed no state archaeological landmarks located within 1,000 feet of the proposed route centerline.

Environmental Integrity

46. The project is not located within the boundaries of the Texas Coastal Management Program.

Routing

47. The proposed line has been routed in accordance with the Commission's policy of prudent avoidance and has minimal residential area impact.

Informal Disposition

48. More than 15 days have passed since completion of notice provided in this docket.
49. No protests, motions to intervene, or requests for hearing have been filed that have not been resolved. No issues of fact or law are disputed by any party; therefore, no hearing is necessary.

II. Conclusions of Law

1. GVEC is an electric utility as that term is defined in §§ 11.004(a) and 31.002 of PURA.
2. The Commission has jurisdiction over these matters pursuant to PURA §§ 14.001, 37.051, 37.054, 37.056 and 37.057.
3. Notice of the application was provided in compliance with PURA § 37.054 and P.U.C. PROC. R. 22.52(a)(1) – (3).
4. GVEC is entitled to approval of the application described above, having demonstrated that the proposed transmission line is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a), taking into consideration the factors set out in PURA §37.056(c).
5. GVEC's application can be approved without a hearing pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2000 & Supp. 2003).
6. This application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. 22.2.
7. The requirements for administrative approval pursuant to P.U.C. SUBST. R 25.101(c)(5)(B) have been met in this proceeding.
8. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

III. Ordering Paragraphs

1. GVEC's application to obtain a Certificate of Convenience and Necessity (CCN) for construction of a 138-kV single pole concrete and double-circuit transmission line, Route Four, in Guadalupe County, Texas is approved.
2. The implementation of the following measures to mitigate construction impacts is hereby ordered:
 - (a) GVEC shall minimize the amount of flora and fauna disturbed during construction of the proposed transmission line and shall revegetate using native species considering landowner preferences. To the maximum extent practicable, the utility shall avoid adverse environmental impacts to sensitive wildlife and vegetative habitats as identified by the TPWD and the USFWS.
 - (b) GVEC shall implement erosion control measures as appropriate. Also, the utility shall return the site to its original contours and grades unless otherwise agreed by the landowners or the landowners' representatives.
 - (c) GVEC shall exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within the right-of-way. Herbicide use shall comply with rules and guidelines established in the Federal Insecticide, Fungicide and Rodenticide Act and with the Texas Department of Agriculture regulations.
 - (d) GVEC shall follow procedures for raptor protection as outlined in Suggested Practices for Raptor Protection on Power Lines, The State of the Art in 1996, Avian Power Line Interaction Committee, 1996.
 - (e) In the event the utility or its contractors encounter any archeological artifacts or other cultural resources during project construction, work shall cease immediately in the vicinity of the resource and the discovery shall be reported to the THC. The utility will take action as directed by the THC.
3. GVEC shall cooperate with the directly affected landowners to implement minor deviations in the approved route to minimize the impact.
4. GVEC shall comply with the reporting requirements of P.U.C. SUBST. R. 25.83.
5. All other motions, requests for entry of specific fact statements and legal conclusions, and any other requests for general or specific relief, if not expressly granted herein, are denied for want of merit.

SIGNED AT AUSTIN, TEXAS on this the 9th day of December 2002.

PUBLIC UTILITY COMMISSION OF TEXAS



MARK GENTLE
ADMINISTRATIVE LAW JUDGE
POLICY DEVELOPMENT DIVISION

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