



Control Number: 33000



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DOCKET NO. 33000

APPLICATION OF DEAF SMITH ELECTRIC COOPERATIVE, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) FOR A PROPOSED TRANSMISSION LINE IN CASTRO AND PARMER COUNTIES, TEXAS	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF'S SUBMISSION OF JOINT PROPOSED ORDER

Staff of the Public Utility Commission of Texas (Staff), representing the public interest, files this Submission of Joint Proposed Order pursuant to Order No. 3 and would show the following:

Staff submits this attached proposed order on behalf of itself and Deaf Smith Electric Cooperative, Inc.

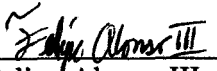
Staff respectfully requests that an order be issued consistent with the attached Proposed Order.

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PUBLIC UTILITY COMMISSION
DALLAS, TEXAS

Respectfully Submitted,

Thomas S. Hunter
Division Director
Legal Division

Keith Rogas
Director – Electric Section
Legal Division

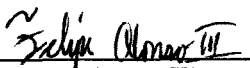


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DOCKET NO. 33000

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 21st day of November, 2006 in accordance with P.U.C. PROC. R. § 22.74.



Felipe Alonso III

DOCKET NO. 33000

APPLICATION OF DEAF SMITH	§	
ELECTRIC COOPERATIVE, INC.	§	PUBLIC UTILITY COMMISSION
FOR A CERTIFICATE OF	§	
CONVENIENCE AND	§	
NECESSITY FOR A PROPOSED	§	OF TEXAS
TRANSMISSION LINE IN	§	
CASTRO AND PARMER	§	
COUNTIES, TEXAS	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Order approves the application of Deaf Smith Electric Cooperative, Inc. (DSEC) to amend its certificate of convenience and necessity (CCN) for a proposed substation and transmission line in Castro and Parmer Counties, Texas. This docket was processed in accordance with applicable statutes and Commission rules. There are no contested issues of law and fact in this proceeding. DSEC's application is approved. The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History, Notice, and Background

1. On September 5, 2006, DSEC filed an Application (Application) to amend its CCN No. 30044 to construct a proposed 18.3-mile 115-kilovolt (kV) transmission line within Castro and Parmer Counties, Texas, as shown on maps within the Application.
2. DSEC's Application requests approval to construct approximately 18.3 miles of single circuit 115 kV transmission line using new structures. DSEC seeks to construct the proposed line to adequately and reliably serve existing and future power needs for Castro and Parmer Counties, Texas.

3. On September 5, 2006, DSEC mailed written notice of the Application to each owner of land on the current county tax rolls in Castro and Parmer Counties, Texas, whose property would be "directly affected" by the proposed transmission line.
4. On September 5, 2006, DSEC mailed written notice of the Application to county officials of Castro and Parmer Counties, Texas. There are no municipalities located within five miles of the requested facility; therefore no notice was sent to any municipalities.
5. On September 5, 2006, DSEC mailed written notice of the Application to the only utility that is located within five miles of the proposed transmission line: Southwestern Public Service Company.
6. The Commission provided notice of the Application to the *Texas Register* for publication on September 8, 2006.
7. DSEC provided notice of its Application for publication in the *Friona Star*, a newspaper of general circulation in Castro and Parmer Counties, once each week for two consecutive weeks on September 21, 2006 and September 28, 2006.
8. On September 27, 2006, October 3, 2006, and October 10, 2006, DSEC provided proof that notice of its Application was provided to landowners, county authorities, other utilities, and by publication.
9. On October 3, 2006, Staff recommended that DSEC's application be found sufficient and on October 17, 2006, concluded that DSEC's notice was in compliance with the Commission's procedural rules.
10. On October 20, 2006, the Commission's Hearing Examiner issued Order No. 3, which deemed the Application sufficient, approved DSEC's notice, and

established a procedural schedule with an intervention deadline of October 20, 2006, and a deadline for referral of this docket to the State Office of Administrative Hearings (SOAH) of November 3, 2006.

11. No person or entity sought intervention in this docket, nor requested referral to SOAH by the deadline set in Commission's Order 3.

Evidence

12. The record of this proceeding includes the following items:
 - a) DSEC's Application for a CCN for 115 kV Transmission Line in Castro and Parmer Counties;
 - b) DSEC's Response to Order No.1, filed September 11, 2006;
 - c) DSEC's affidavit of Proof of Notice filed September 27, 2006;
 - d) DSEC's revised affidavit of Proof of Notice filed October 3, 2006;
 - e) DSEC's publisher's affidavit filed on October 10, 2006.

Project Cost and Description

13. DSEC's proposed approximately 18.3 mile transmission project will connect the existing Castro County Interchange substation in Castro County to the existing Substation 18 in Parmer County. The transmission project is necessary to adequately and reliably serve existing and future loads.
14. The proposed 115 kV line, as a single circuit, will begin at the Castro County Interchange substation belonging to Southwest Public Service (SPS) and located slightly east of County Road (CR) 507 approximately 1 mile south of State Highway (SH) 86. The new line will parallel an existing SPS transmission line on the east side of CR 507 northward approximately 1 mile to the south side of SH 86. The line will then proceed west paralleling the south side of SH 86 for approximately 17.2 miles to the junction of SH 86 and SH 214. The new line

will then proceed north approximately 0.1 mile paralleling the east side of SH 214 to DSEC's existing Substation 18.

15. The transmission line will consist of approximately 18.3 miles of new 115 kV transmission line built on single circuit structures. The project will be constructed using single-pole construction and 397.5 kcmil ACSR 26/7 "Drake" steel reinforced conductor. The poles will either be wood, steel or composite and the right-of-way (ROW) for the line will require acquisition of a 20 feet wide easement for the entire length of the line. The height of the structures will typically be 65.5 feet.
16. A 115 kV bus extension and a 115 kV line termination will be installed at the Castro County Interchange to accommodate DSEC's new line. A 69 kV bus extension and a new 69 kV capacitor bank will also be installed at the Castro County Interchange as part of the overall project. Metering as required will be installed at DSEC's proposed Substation 22.
17. DSEC's existing Substation 18 will be converted from 69 kV to 115 kV to accommodate the new line.
18. A new 115 kV DESC load-serving substation (Substation 22) will be constructed at an unspecified point on SH 86 along the path of the proposed line.
19. The proposed line will be designed using National Electrical Safety Code (NESC) medium loading factors and design clearances will meet or exceed clearances required by the Texas Department of Transportation (TxDOT).
20. The estimated cost of the transmission line is \$3,815,000 and the estimated cost for the substation facilities is \$2,005,000.

21. DSEC will finance this project with new long-term debt furnished by the National Rural Utilities Cooperative Finance Corporation.

Need for the Proposed Transmission Line

22. The proposed project is required to adequately and reliably serve existing and future loads; it is not required to serve a new transmission customer or to support the reliability and adequacy of the interconnected transmission system. The ERCOT ISO has not reviewed the proposed project because it is located within the Southwest power pool and not within ERCOT.
23. DSEC currently serves many of the loads in the area traversed by the proposed project from its existing 69 kV line originating at SPS's 69 kV bus at the Castro County Interchange. Requests for additional service for irrigation systems are pending but not filled because neither DSEC's existing 69 kV line nor SPS's 69 kV bus can accommodate the additional loads. The proposed project, including the proposed Substation 22, will relieve the existing 69 kV line and provide capacity sufficient to serve the pending requests and additional future loads in the area from SPS's 115 kV bus at the Castro County Interchange.

Project Alternatives

24. DSEC evaluated a number of options for serving the existing load. These options included distribution alternatives, upgrading voltage, bundling conductors, adding transformers, generation, and connecting to alternative transmission lines.

25. One alternative considered distribution alternatives but was eliminated as a solution because it has been utilized previously as far as possible without reconstruction of major portions of the distribution system. Additionally, further increase in the capacity of any of the current substations will result in capital expenditures exceeding the cost of extension of the transmission line and such distribution upgrades drastically reduced options for future growth.
26. Another alternative considered, but ultimately rejected was increasing the operating voltage for the DSEC system. It was eliminated as a possibility because it would require a complete redesign of the existing facilities, as well as major changes on the SPS system to interconnect at a higher voltage.
27. A third option considered was the bundling of conductors on an existing transmission line to increase the transfer capability of the system by eliminating overload condition. However, this was eliminated as a viable solution because current problems on the DSEC system must coordinate with the SPS study and the capacity offered by SPS is not at the same voltage as the current DSEC owned transmission lines in the area. The 69 kV capacity at the Castro County Interchange is not offered by SPS so bundling of conductors is not an option.
28. The fourth option considered, the addition of transformers, is not a viable option to economically solve the need for additional capacity.
29. A fifth option eliminated was the installation and connection of generation facilities to the transmission system and operated during peak load conditions as a way to reduce the loading on the transmission system. This option was rejected because distributed generation is not expected to add sufficient capacity to be a viable solution. Additionally, adding generation is not expected to be economically feasible.

30. The final alternative, the subject of DSEC's application in this docket, considered the construction of a new 115 kV transmission line and a new distribution substation in Castro and Parmer Counties that has the potential to serve the area's projected load growth for several years and that has future upgradeability. The estimated cost of the new transmission line, substation, feeders, and tie facilities is \$5,820,000.
31. The transmission line approved in this Order is the best option for addressing the distribution service needs in Castro and Parmer Counties, taking into account considerations of efficiency, reliability, costs, and benefits.

Environmental Impact and Community Values

32. DSEC contracted with PBS&J to perform an Environmental Assessment of the proposed project area.
33. The study area for the proposed project is approximately 20.5 miles in length, and approximately 7.4 miles wide. Altogether, this study area encompasses approximately 118,000 acres in Castro and Parmer Counties.
34. There are 32 habitable structures within 300 feet of the centerline of the proposed project.
35. There was a public meeting held on May 25, 2006. To advertise the meeting, notices announcing the location, time, and purpose of the meeting were mailed to approximately 72 landowners and DSEC customers within the study area more than 2 weeks prior to the public meeting in accordance with P.U.C. SUBST. R. § 22.52.
36. There are no AM radio transmitters located within 10,000 feet of the center line of the proposed route. Except for SPS Energies microwave tower located near

Castro County Interchange, no other FM radio transmitters, microwave relay stations or similar electronic installations are located within 2,000 feet from the centerline of the proposed route. The microwave tower is located approximately 235 feet west of the proposed route.

37. No private airstrips were identified that occur within 10,000 feet of the centerline of the proposed route. No airports registered with the FAA occur within 20,000 feet of the preferred or alternative routes. No heliports are located within 5,000 feet of the preferred or alternative routes.
38. Pivot irrigation is the most extensive constraint within the study area. The proposed route follows the existing road right-of-way for most of its entire length in order to minimize the impact on the pivot irrigation systems.
39. The following governmental permits or approvals have or will be obtained by DSEC following approval of the CCN and prior to initiating construction:
 - a) Storm Water Pollution Prevention Plan will be submitted to the Texas Commission on Environmental Quality. A Notice of Intent will be submitted by DSEC or its contractor prior to the beginning of construction;
 - b) Permits will be obtained from TxDOT for crossing state-maintained road/highways; and
 - c) If necessary, cultural resource clearance will be obtained from the Texas Historical Commission for the proposed project ROW.

Parks and Recreation Areas

40. No parks or recreational facilities are located within 1000 feet of the centerline of the proposed transmission line.

Historical and Archaeological Values

41. There are no known archaeological or historical sites recorded within 1,000 feet of the proposed route.

Aesthetic Values

42. The proposed preferred route parallels existing transmission lines and roadways, and for much of its length on the south side of SH 86 parallels and existing distribution line of the north side of SH 86. The route is also traversing an area heavily populated with existing mobile irrigation systems. Therefore, the proposed transmission line project is expected to have only minimal additional negative aesthetic impacts.

Environmental Integrity

43. PBS&J evaluated the impacts of the proposed project on environmental integrity. The environmental assessment included notification letters to several federal and state agencies describing DSEC's proposed project.
44. The project will cause only short-term impacts to the soil, water, and ecological resources. The proposed route of the transmission line is currently located in prime or potential prime farmland. The major impact of construction on soil is the potential for erosion. Mitigation measures listed in the Ordering Paragraphs of this Order will serve to reduce or mitigate potential soil erosion concerns.
45. Some individual state and federally listed species could potentially be affected by construction and maintenance activities associated with this project, but not to the extent that would significantly affect local populations. In addition, mitigation measures listed in the Ordering Paragraphs of this Order will serve to reduce and

mitigate potential adverse effects of construction and operation of the proposed transmission line.

46. The proposed project is not located either in whole or in part within the Texas Coastal Management Program boundary.
47. DSEC has conducted an adequate evaluation of potential environmental impacts of a transmission line in the project.

II. Conclusions of Law

1. DSEC is an electric utility as defined in § 31.002 of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-64.158 (Vernon 1998 & Supp. 2005) (PURA).
2. The Commission has jurisdiction over these matters pursuant to PURA §§ 14.001, 32.001, 37.051, 37.053, 37.054, 37.056, and 37.057.
3. Notice of the Application was provided in compliance with PURA § 37.54 and P.U.C. PROC. R. § 22.52(a).
4. DSEC is entitled to approval of this Application described above, having demonstrated that the proposed Project 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. The Application may be approved without hearing pursuant to § 2001.056 of the Administrative Procedure Act, TEX. GOV'T CODE ANN. Chapter 2001 (Vernon 2000 & Supp. 2005).

6. This Application does not constitute a major rate proceeding as defined by P.U.C. PROC. R. § 22.2.
7. DSEC has met the requirements of P.U.C. SUBST. R. § 25.101(b)(3).
8. No issue is presented by the Application subject to P.U.C. SUBST. R. § 25.102 (Coastal Management Program).
9. The Approved Route adheres to the Commission's "prudent avoidance" policy contained in P.U.C. SUBST. R §§ 25.101(a)(4) and (b)(3)(B)(iv).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Consistent with the Stipulation, DSEC's CCN No. 30044 is amended to include the construction of the transmission and substation facilities as more fully described in the Findings of Fact, along the Preferred Route, Route 1, as set forth in its Application.
2. DSEC shall minimize the amount of flora and fauna disturbed during the construction of the proposed transmission line and revegetate using native species considering landowner preferences. To the maximum extent practicable, DSEC shall avoid adverse environmental impacts to sensitive wildlife and vegetative habitats as identified by the Texas Parks and Wildlife Department and U.S. Fish and Wildlife Service.
3. DSEC shall implement erosion control measures as appropriate. Also, DSEC shall return the site to its original contours and grades unless otherwise agreed to by the landowners or the landowner's representative.

4. DSEC 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.
5. DSEC shall follow the procedures outlined in the following publications for protecting raptors: *Suggested Practices for Raptor Protection on Power Lines, The State of the Art in 1996*, Avian Power Line Interaction Committee, 1996 and the *Avian Protection Plan Guidelines* published by the Committee in April, 2005.
6. In the event DSEC 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 Texas Historical Commission (THC). DSEC shall take action as directed by the THC.
7. DSEC shall cooperate with the directly affected landowners to implement minor deviations in the Approved Route to minimize the impact of the proposed transmission line.
8. DSEC shall obtain permits from Texas Department of Transportation (TxDOT) for all crossings of state-maintained roadways.
9. Each transmission line structure supporting a span that passes within 100 feet of a habitable structure shall be located immediately adjacent to the right-of-way of the public roadway.
10. Each transmission line structure supporting a span that passes within 100 feet of a habitable structure shall have all conductor support arms mounted on the side of the transmission structure farthest from the habitable structure.

11. DSEC shall comply with FAA's rules and regulations regarding the construction and operation of the project.
12. DSEC shall comply with the reporting requirements of P.U.C. SUBST. R. § 25.83.
13. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS on the _____ day of _____, 2006.

PUBLIC UTILITY COMMISSION OF TEXAS

JULIE PARSLEY, COMMISSIONER

BARRY SMITHERMAN, COMMISSIONER

PUAL HUDSON, CHAIRMAN