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PUC DOCKET NO. 34611
SOAH DOCKET NO. 473-08-3341

APPLICATION OF KELSON TRANSMISSION COMPANY, LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED CEDAR BAYOU-TO-DEWEYVILLE 345 KV TRANSMISSION LINE WITHIN CHAMBERS, HARDIN, JASPER, JEFFERSON, LIBERTY, NEWTON, AND ORANGE COUNTIES	§	**PUBLIC UTILITY COMMISSION OF TEXAS**

JOINT RESPONSE TO ERCOT'S LATE MOTION TO INTERVENE OF OCCIDENTAL CHEMICAL CORPORATION, OFFICE OF PUBLIC UTILITY COUNSEL, SOUTH TEXAS ELECTRIC COOPERATIVE, INC., STATE OF TEXAS, AND TEXAS INDUSTRIAL ENERGY CONSUMERS

Intervenors Occidental Chemical Corporation, Office of Public Utility Counsel, South Texas Electric Cooperative, Inc., State of Texas, and Texas Industrial Energy Consumers (Joint Respondents) hereby submit this Joint Response to ERCOT's Late Motion to Intervene, filed on May 14, 2009. To the extent that P.U.C. PROC. R. 22.71(j)(1) is applicable, Joint Respondents respectfully submit that good cause exists to consider this response despite the fact that it is not being filed at least seven days prior to the Commission's May 21, 2009 meeting. ERCOT's motion was not filed until May 14 and therefore this response is being filed at the earliest feasible time.

Joint Respondents do not oppose ERCOT's Late Motion to Intervene,[1] but do wish to comment on ERCOT's discussion of the Regional Planning Group (RPG) process. Joint Respondents respectfully refer the Commission to the original RPG Charter approved in 2003 that is mentioned in footnote 1 of ERCOT's motion. As ERCOT states, that was the version of the Charter that "was applicable for all discussions between ERCOT and Kelson about the 95-

[1] ERCOT stated that it will accept the record as it exists. ERCOT Late Motion to Intervene at 4. To the extent that the Commission wishes to further explore issues raised in ERCOT's motion, Joint Respondents reserve their right to conduct additional discovery, file supplemental testimony, and conduct cross-examination as necessary.

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mile line."[2] A copy of the relevant page of the 2003 RPG Charter (page 9 of 17) is attached to this Joint Response as Appendix A and may also be found on ERCOT's website at http://www.ercot.com/content/meetings/board/keydocs/2003/1021/Board10212003-4.doc. The applicable portion of the 2003 Charter states as follows with respect to generation interconnection projects:

> Generation interconnection projects will not be reviewed in the RPG process unless the interconnection transmission lines *are in excess of five miles in length.* These transmission projects will then enter the open process for final RPG concurrence of the projects associated with the generation plant dependent upon the firm commitments of the generation owner.[3]

Although the evidence indicates that this provision may not have been applied consistently in the past,[4] the literal wording of the RPG Charter that was applicable during the period when Kelson and its affiliate Cottonwood Energy were discussing which ERCOT process to utilize required RPG review of the proposed 95-mile interconnection line.

ERCOT also discusses the generation interconnection process in its motion. However, Joint Respondents note that Kelson and Cottonwood also failed to follow these procedures. Under the generation interconnection procedures, generators seeking interconnection must first obtain a security screening study from ERCOT Staff.[5] After the screening study is completed, a full interconnection study is conducted by the applicable TSP. According to ERCOT's *Generation Interconnection and Change Request Procedure*, a full interconnection study includes (a) a steady state and transfer analysis study; (b) a system protection analysis; (c) a dynamics analysis; and (d) a facilities study. Only the ERCOT Security Screening Study and CenterPoint Steady State Study were completed for Cottonwood with CenterPoint Energy as the transmission service provider. There is no evidence that the additional system protection, dynamics, and facilities studies have been either initiated or completed. Under the procedures, a completed interconnection agreement (*i.e.*, the Commission's Standard Generation

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[2] *Id.* at 2-3, n. 1.

[3] Emphasis added.

[4] *See* Rebuttal Testimony of Terry Dodson, Kelson Ex. 6 at Attachment TD-11R, page 2 of 4.

[5] *See* ERCOT Generation Interconnection or Change Request Procedure (August 2004), available at www.ercot.com/gridinfo/generation/ERCOTGenIntChngRequestProcedure09122007.doc.

Interconnection Agreement or "SGIA") must be signed with the applicable TSP within 180 days after completion of the full interconnection study. If such an agreement is not reached within 180 days, "the request for interconnection will be considered cancelled and no longer valid."[6] Section 8.3 of the SGIA specifically requires the generator to provide a "reasonable deposit or provide another means of security, to cover the costs of planning, licensing, procuring equipment and materials, and constructing the TIF [the TSP's interconnection facilities]."[7]

In this case, it appears that security screening and one interconnection study, steady state, have been performed for Cottonwood.[8] However, there is no evidence that Cottonwood has signed an interconnection agreement, completed the additional studies for interconnection, or that it has provided the required security deposit under Section 8.3 of the SGIA. Thus, Kelson did not require its affiliate Cottonwood to comply with the procedures that were generally applicable to all generators under the generation interconnection process.

WHEREFORE, PREMISES CONSIDERED, Occidental Chemical Corporation, Office of Public Utility Counsel, South Texas Electric Cooperative, Inc., State of Texas, and Texas Industrial Energy Consumers do not oppose ERCOT's Late Motion to Intervene, but respectfully suggest that the Commission consider the foregoing comments.

Respectfully submitted,

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[6] *Id.* at 7.

[7] Docket No. 22052, Order on Rehearing Approving the Standard Generation Interconnection Agreement, SGIA at Sec. 8.3 at p. 20.

[8] Rebuttal Testimony of Terry Dodson, Kelson Ex. 6 at 14.

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May 19, 2009

CERTIFICATE OF SERVICE

I, James E. Guy, certify that a copy of this document was served on all parties of record in this proceeding on May 19, 2009, by regular mail, facsimile transmission, e-mail or hand-delivery.

James E. Guy

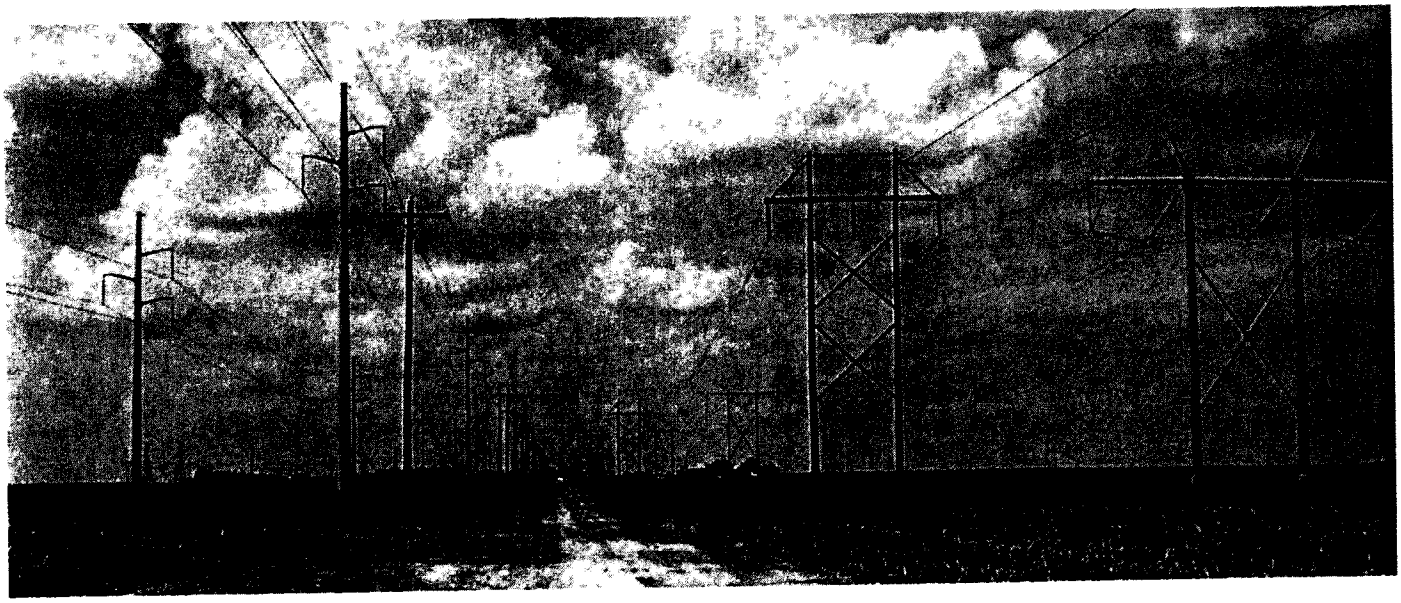
ERCOT
TEXAS CONNECTION

FINAL

POWER SYSTEM PLANNING CHARTER AND PROCESSES

October 13, 2003

[Refinements made in an open process including the ERCOT regional planning groups, WMS, ROS, and TAC.]



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Supervise Processing of Requests For New Generation Interconnection or Generation Additions

As required under PUCT Substantive Rules, ERCOT will receive all new generation interconnection requests and additions in accordance with the procedure entitled "GENERATION INTERCONNECTION REQUEST PROCEDURES." As a part of that process ERCOT will perform a steady-state security screening study to determine site feasibility for interconnection and at what level the generator can expect to operate with other generation in the area in operation before significant transmission additions are necessary. ERCOT will also make a very rough estimate of the transmission system additions needed to integrate the new generation. This information in the form of a report will be presented to the generating entity requesting interconnection, and the generating entity can then decide if it wants to continue to request interconnection at that site or withdraw the application. At that time, ERCOT will inform the generating entity if it considers the proposed site to be inappropriate to the point that ERCOT will not support the addition of transmission needed to integrate the project into the transmission system. If the generating entity decides to go forward at the designated site, ERCOT will then initiate a full interconnection study with the transmission owners of the respective RPG with the lead TDSP designated as the one directly affected by the interconnection. Generation interconnection requests will remain confidential until an interconnection agreement or financial agreement for transmission construction is completed with a transmission owner. An official letter from a municipal utility or electric cooperative will also serve as a public commitment. At that time, the generation project will be regarded as a confirmed project and will be posted on the ERCOT Internet website along with copies of generation interconnection impact studies and related proposed transmission projects. Generation interconnection projects will not be reviewed in the RPG process unless the interconnection transmission lines are in excess of five miles in length. These transmission projects will then enter the open process for final RPG concurrence of the projects associated with the generation plant dependent upon the firm commitments of the generation owner.

Types of Network Solutions

A transmission project designated as "without generation re-dispatch options" indicates that the binding constraint(s) driving the need for the project does not have any generators whose dispatch can be altered to eliminate an ERCOT Planning Criteria reliability violation. Economic evaluation is necessary only of alternate transmission project upgrade options. It is imperative that these reliability-justified projects continue to be identified and built in a timely manner.

For any grid-related system security issue where the mix of existing generators in the market can have their commitment and dispatch altered to eliminate security violations, the grid limitation is generation related. If a non-transmission upgrade alternative is available, a comparative economic evaluation is warranted to determine the most economically efficient energy delivery option, and therefore, can be identified as "with generation re-dispatch options." Non-transmission alternatives include, but are not limited to, load interruption (DSM), Out of Merit Capacity (OOMC), Out of Merit Energy (OOME), Local Balancing Energy (LBE), and Reliability Must-Run (RMR) services. These components contribute to local congestion costs currently "uplifted" or socialized, in a similar manner to wires charges, and therefore fall into the desired optimization mix necessary to minimize energy delivery costs. Demand (load) response may also be considered an option, if it can be feasibly evaluated as a reliable option.

ERCOT System Operations utilizes an Energy Management System (EMS), which can issue RMR, OOMC, and OOME instructions as necessary to ensure that the proper mix of generation will be online and dispatched to the proper output levels to ensure secure and reliable real-time operation. When evaluating the transmission system, a security-constrained unit commitment and economic dispatch algorithm will be used, if available, to determine if a secure commitment and dispatch combination exists for potential binding transmission constraints. While traditional power flow tools can determine what transmission upgrades are necessary to