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APPLICATION OF LCRA TRANSMISSION SERVICES CORPORATION TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE PROPOSED GILLESPIE TO NEWTON 345KV CREZ TRANSMISSION LINE IN GILLESPIE, LLANO, SAN SABA, BURNET, AND LAMPASSAS COUNTIES, TEXAS

Before

STATE OFFICE OF ADMINISTRATIVE HEARINGS

INITIAL BRIEF OF MARGARET AND GRADY RYLANDER

To the Honorable Judge Wendy Harvel:

Margaret and Grady Rylander, trustees of the Rylander Prairie Mountain Ranch Partnership Ltd, own property on Link C7 which is part of proposed routes GN1, GN2, and GN3. Margaret and Grady Rylander suggest approval of LCRA TSC's application along routes GN6, GN10, modified GN10 (GN10M) or GN11.

I. Introduction

The arguments presented here result from the findings of fact and evidence admitted in the Hearing of Merits held at the Thompson Conference Center, The University of Texas at Austin, February 4-12, 2010. The case is really not unique but typical of transmission line CNN applications. Each intervenor presented compelling testimony about the unique features of his/her property that would be adversely affected by the transmission line and reasons to route the transmission line somewhere other than the route that crossed the property. LCRA TSC (the applicant) stated that all 11 of the filed routes comply with applicable statutes, engineering constraints, and commission rules.[1]

[1] Garza Direct Testimony (LCRA Exhibit 1), P. 19, lines 1-16 and P. 23, lines 15-23.

The applicant stated that it can construct the transmission line on whichever of the 11 alternative routes or modified GN10 is selected by the Public Utility Commission (PUC).[2] Therefore, the selection of a route by the PUC should be based on the objective findings that produce the optimal benefit to the public (People of Texas).

Margaret and Grady Rylander are signatories supporting the modification to link C3 proposed in the Stipulation offered by the Gillespie Substation Intervenors.[3] This Stipulation moves the transmission line away from the affected landowner's house and had received conditional support of LCRA TSC and PUC Staff but was not unanimous. Any mention of proposed routes or links in this brief includes endorsement of the modifications to link C3 described in the Gillespie Substation Intervenor's Stipulation.

II. Procedural History, Notice & Jurisdiction

III. Preliminary Order Issues (See Filing F#11 on Interchange)

A. Issue No. 1

Is LCRA TSC's application to amend its CNN adequate? Does the application contain an adequate number of reasonably differentiated alternate routes to conduct a proper evaluation? Mr. Payne presented a map showing the sampling of alternate routes relative to a line drawn from the Gillespie substation to the Newton substation.[4] The geographical sampling is clearly biased to the west side of the direct line between the two substations. When asked about the geographical bias, Mr. Garza begs the question and answers that the study area is appropriate because it includes the two commission-defined end points.[5]

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[2]Rebuttal Testimony of Dennis Palafox (LCRA TSC Exhibit 9), P. 27, lines 13-15.

[3]Gillespie Substation Intervenors, Exhibit 40.

[4]Payne, Exhibit C4.

[5]Rebuttal Testimony of Sergio Garza (LCRA TSC Exhibit 10), P.9, lines 5-18.

B. Issue No. 2

C. Issue No. 3

D. Issue No. 4

E. Issue No. 5

F. Issue No. 6 (Route choice)

1. Effect on LCRA/other utilities

The stated purpose of the proposed transmission line is to bring power from the wind generation facilities in West Texas to the load centers in Central and East Texas.[6] A transmission line transmits power regardless of the generation source (nuclear, solar, wind, fossil fuel) and a major benefit of having additional transmission lines is reliability from redundancy. ERCOT has studied the reliability issues and supports the CREZ projects.[7]

2. Community Values

Mr. Palafox adequately addressed the community values in his rebuttal testimony.[8]

3. Recreational and Park Areas

Two Texas State Parks and one State Natural Area are impacted by various routes: Enchanted Rock State Natural Area (ERSNA), Inks Lake State Part (ILSP), and Colorado Bend State Park (CBSP).[9] Longhorn Cavern State Park is not included because it is a cave. The various routes pass within 10 miles of either CBSP or ILSP, but not both. The proximity of the various routes to the closest two State Parks is:

GN1: 1.5 miles ERSNA, 0.5 miles CBSP, average distance to nearest two parks = 1 mile

GN2: 1.5 miles ERSNA, 4 miles CBSP, average distance to nearest two parks= 2.75 mile

GN3: 1.5 miles ERSNA, 4 miles CBSP, average distance to nearest two parks= 2.75 mile

GN4: 1.2 miles ERSNA, 4 miles CBSP, average distance to nearest two parks= 2.6 mile

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[6] Garza Direct Testimony, (LCRA TSC Exhibit 1) P. 13, lines 14-15.

[7] Garza Direct Testimony, (LCRA TSC Exhibit 1) P. 12-13.

[8] Rebuttal Testimony of Dennis Palafox (LCRA TSC Exhibit 9), P. 4-5.

[9] LCRA Application, (LCRA TSC Exhibit 1) Attachment 10, Maps 3a,b,c, P 21-23.

GN5: 6 miles ERSNA, 4miles CBSP, average distance to nearest two parks= 5 mile
GN6: 6 miles ERSNA, 1 miles ILSP, average distance to nearest two parks= 3.5 mile
GN7: 6 miles ERSNA, 1 miles ILSP, average distance to nearest two parks= 3.5 mile
GN8: 6 miles ERSNA, 1 miles ILSP, average distance to nearest two parks= 3.5 mile
GN9: 6 miles ERSNA, 0.5 miles CBSP, average distance to nearest two parks=3.25 mile
GN10:6 miles ERSNA,0.5 miles CBSP,average distance to nearest two parks= 3.25 mile
GN10M: 6 miles ERSNA, 4 miles CBSP, average distance to nearest two parks= 5 mile
GN11: 6 miles ERSNA, 4 miles CBSP, average distance to nearest two parks= 5 mile
Therefore, GN1 is the worst route and GN5, GN10M, and GN11 are the best routes at avoiding State Parks and State Natural Areas.

4. Historical & Aesthetic Values

The area traversed by the proposed transmission line is in the heart of the Texas Hill Country with numerous historical and scenic treasures and is enjoyed by the public. The PUC should consider the visual impact on the many visitors who come to the State Parks in this area and the visitors who drive through the Texas Hill Country. Is the benefit of the transmission line to the public worth the price?

5. Environmental Integrity

No arguments were presented at the Hearing of Merits that contradicted the assumption that use of existing ROW preserves environmental integrity. Texas P&W favors route GN6 which has the most use of existing TL ROW. [10]

6. 39.904 (a) (21): Goals for Renewable Energy

7. Engineering Constraints

The applicant stated that all 11 primary routes and GN10M can be built and are acceptable.[11]

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[10] Direct Testimony of Michael Morrison, Letter from Dr Karen Clary to Mr. Almon dated December 23, 2009, Exhibit MM-4, P. 35-43, CJ Ranch Exhibit 2.

[11] Rebuttal Testimony of Dennis Palafox (LCRA TSC Exhibit 9), P. 27, lines 13-15.

8. Costs

The projected costs of the various routes are listed in exhibit CDS 2R of the Corrected Direct Testimony of Mr. Curtis Symank[12] and graphed in the Amended Direct Testimony of Margaret and Grady Rylander.[13] The highest costs are for GN1, GN2, and GN4 ($206M-$207M), GN3 ($190M) and the lowest costs are for GN6, GN10, and GN11 ($161M-$162M). The lower costs of GN6, GN10, and GN11 are directly correlated with the use of existing ROW on links C1+C3+C5+C9+C11 (which saves $27M) compared with routes that contain links C1+C2+C7.[14]

9. Existing ROW/Vacant Positions

Data for the use of existing ROW is given in Exhibit RRR-2R of the Rebuttal Testimony of Rob Reid.[15] There is clearly a multi-modal distribution on the use of existing ROW. Links GN1, GN2, and GN3 use only 4 miles of existing TL ROW. GN4 uses 11 miles of existing TL ROW. GN5, GN9, GN10, and GN11 all use 35 miles of existing TL ROW. GN6 uses the largest amount of existing ROW (47 miles). The use of links C1+C3+C5+C9+C11 provides 34.3 miles of existing ROW where LCRA has proposed to decommission an existing T-130 69KV transmission line and replace it with the proposed 345KV transmission line.[16] GN6 is the clear winner on the use of existing TL ROW and GN1, 2, 3 are the clear losers.

10. Paralleling existing ROW

Routes GN 6 and GN7 (that contain links C18) parallel the T109 transmission line and may offer some advantage.

11. Paralleling Property Lines & Other Cultural features

No effort has been made to parallel property lines on Link C7.[17] LCRA land fabric maps depicting how the transmission line crossed the various intervenors' properties revealed

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[12] Direct Testimony of Curtis Symank issued January 4, 2010 with corrections, LCRA TSC Exhibit 6, P.31.

[13] Amended Direct Testimony of Margaret and Grady Rylander, Exhibit 1, P.8.

[14] Amended Direct Testimony of Margaret and Grady Rylander, Exhibit 1, P.3.

[15] Rebuttal Testimony of Rob Reid, (LCRA TSC Exhibit 13).

[16] Amended Direct Testimony of Margaret and Grady Rylander, Exhibit 1, P.2.

[17] Amended Direct Testimony of Margaret and Grady Rylander, Exhibit 1, P.1.

failure of due diligence on the part of LCRA TSC to parallel property lines.[18] Mr. Reid states in his Rebuttal Testimony: "Because of the size of this line, the cost of the line and angle structures, and the irregular size, shape, and layout of individual tracts of land in the study area (see attachment 4 to the application) it was not reasonable or practical to follow property lines for extended lengths with the alternate routes".[19] Property boundaries are important cultural and legal features. Even though they may not be visible on an aerial photograph, honoring property boundaries limits the impact of the transmission line on individual landowners, all other things being equal.

12. Prudent Avoidance

The Rebuttal Testimony and Exhibits of Rob R. Reid give the data for the number of habitable structures within 500 feet of the ROW centerline for the 11 primary routes.[20] The average number of habitable structures within 500 feet of the ROW centerline over all routes is 57 with a standard deviation (SD) of 39.34. The only route outside +/- 1 SD of the mean is GN6 with 164 habitable structures. The Reid testimony also gives the data for the number of newly affected habitable structures within 500 feet of the ROW centerline for the 11 primary routes. The average number of newly affected habitable structures within 500 feet of the ROW centerline over all routes is 35 with a standard deviation of 13.83. The only routes outside +/- 1 SD of the mean are GN9 with 18 newly affected structures and GN3, GN6, and GN7 with 57, 51, and 57 newly affected structures, respectively. Based on the evidence in the Rebuttal Testimony of Rob R. Reid, GN6 has a statistically significant larger impact on both the total number of habitable structures and the number of newly affected habitable structures within 500 feet of the ROW centerline than the other routes. Route GN6 would be the poorest choice based on prudent avoidance of habitable structures.

G. Issue No. 7

H. Issue No. 8

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[18] LCRA TSC Application Land Fabric Maps (Attachment 4 to Application), LCRA Exhibit 1.

[19] Rebuttal Testimony of Rob Reid (LCRA TSC Exhibit 13), P.6, lines 12-16.

[20] Rebuttal Testimony of Rob Reid (LCRA TSC Exhibit 13), Exhibit RRR-2R.

I. Issue No. 9

J. Issue No. 10

K. Supplemental Prelim Order Issues (TPWD)

IV. Other Relevant Issues Not Addressed Above

There has been a strong public support for the use of monopoles throughout the project area. The additional cost of using monopoles has been documented in the Direct Testimony of Mr. Curtis Symank.[21] There is no practical way to measure in dollars the subjective benefit of using monopoles to the public.[22] Despite the lack of a viable currency to measure the Cost/Benefit of using monopoles throughout the project, it makes good sense that there would be significant benefit to the affected landowners and the public for the PUC to require monopoles near houses and in areas close to public access or view.

V. Conclusion

The best routes for the proposed transmission line weighing the factors set forth in PURA 37.056(c)(4) and PUC Subst. R. 25.101(b)(3)(B) are: GN6, GN10, GN10M, or GN11. Route GN6 is characterized by extremes. GN6 uses significantly more existing ROW than the other routes, is among the least expensive routes to build, but it impacts habitable structures the most. GN6 is best for the environment and worst for humans. If cost, prudent avoidance and use of existing ROW are equally weighted, then the best compromise is GN10, GN10M or GN11. Routes GN10, GN10M and GN11 achieve the best balance of competing criteria that are most salient in this docket. On whichever route is selected, LCRA TSC should be required to follow property boundaries to the maximum extent possible.

[21] Direct Testimony of Curtis Symank (with corrections, dated January 4, 2010), TCRA TSC Exhibit 6, P. 14-15.

[22] Transcript, P. 341 (Symank cross by Rylander).

Respectfully submitted,

Grady Rylander
Trustee, Rylander Prairie Mountain Ranch Partnership

Margaret Rylander
Trustee, Rylander Prairie Mountain Ranch Partnership

Certificate of Service

I certify that a copy of this document was served on all parties of record in this proceeding either by e-mail, FAX, or overnight mail on February 18, 2010.

Grady Rylander

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