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PUC DOCKET NO. 40606

**APPLICATION OF WIND ENERGY TRANSMISSION TEXAS, LLC
FOR AUTHORITY TO ESTABLISH
INITIAL RATES AND TARIFFS**

VOLUME I

APPLICATION AND DIRECT TESTIMONY

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**APPLICATION OF WIND ENERGY §
TRANSMISSION TEXAS, LLC §
FOR AUTHORITY TO §
ESTABLISH INITIAL RATES §
AND TARIFFS §** **BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

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TRANSMISSION TEXAS, LLC	§	
FOR AUTHORITY TO	§	PUBLIC UTILITY COMMISSION
ESTABLISH INITIAL RATES	§	
AND TARIFFS	§	OF TEXAS

**APPLICATION
OF
WIND ENERGY TRANSMISSION TEXAS, LLC
FOR AUTHORITY TO ESTABLISH
INITIAL RATES AND TARIFFS**

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TRANSMISSION TEXAS, LLC	§	
FOR AUTHORITY TO	§	PUBLIC UTILITY COMMISSION
ESTABLISH INITIAL RATES	§	
AND TARIFFS	§	OF TEXAS

**APPLICATION OF WIND ENERGY TRANSMISSION TEXAS, LLC
FOR AUTHORITY TO ESTABLISH INITIAL RATES AND TARIFFS**

COMES NOW Wind Energy Transmission Texas, LLC (“WETT” or the “Company”) and files this Application for Authority to Establish Initial Rates and Tariffs (the “Application”), and respectfully requests the Public Utility Commission of Texas (“PUC” or the “Commission”) to approve the rates, tariffs which include Wholesale Transmission Service rates, and an associated rider as set forth in this Application.

I. OVERVIEW OF APPLICATION

In this Application, WETT is requesting that the Commission approve two rates, one to become effective when WETT’s CCN1 and CCN2 (“Phase I”) facilities are capable of providing service and the other when its CCN3 (“Phase II”) facilities are capable of providing service.¹ The difference between the two rates is the levels of maintenance expenses, administrative and general expenses, and taxes other than income, which increase when the Phase II facilities are complete and capable of providing service.²

¹ CCNs 1, 2, and 3 and Phases I and II are further defined on p. 4.

² PURA § 36.053(d) establishes that CREZ facilities are “used and useful” for purposes of § 36.051 “regardless of the extent of the utility’s actual use of the facilities.” The Commission has interpreted this to mean that CREZ facilities are used and useful when they are constructed and capable of providing service: “the Commission may not find that CREZ facilities are not used and useful when such facilities have been constructed and are capable of being put into service but cannot be placed into service because necessary interconnecting facilities have not been completed.” *Application of Lone Star Transmission LLC to Establish Interim and Final Rates and Tariffs*, Docket No. 40020, Supplemental Preliminary Order at 11 (July 9, 2012).

WETT's revenue requirements vary depending on the procedure adopted for including WETT's capital investment in rate base. WETT has identified two options for doing this.

WETT's preferred option is to include its Phase I capital expenditures as of June 30, 2012,³ in rate base in this case, with rates to be effective when Phase I is complete, currently expected to be March 31, 2013. WETT's subsequent Phase I capital expenditures and its Phase II capital expenditures would be added to rate base in an interim transmission cost of service ("TCOS") update, with said update to be filed before Phase II is complete—currently expected to be May 15, 2013—so rates can be implemented when Phase II is capable of providing service. This is similar to the procedure adopted in Docket 40020.⁴ Revenue requirements associated with this option are presented in WETT's Schedules.

Should WETT's preferred procedure not be adopted, WETT proposes in the alternative to base its rates on its Phase I capital expenditures as of June 30, 2012, *and* its Phase II capital expenditures as of June 30, 2012 (as CREZ CWIP), in rates to be effective when Phase I facilities are capable of providing service. Revenue requirements associated with this option are presented in WETT's Alternative Schedules. Note that the approach chosen for calculating WETT's capital investment will not affect WETT's request for recovery of its operating expenses in rates, which will increase from Phase I to Phase II regardless of the method used for capturing WETT's capital investment.

If WETT's preferred approach is adopted, WETT's rates for the provision of transmission service in Texas would be based on its revenue requirement of \$31,194,856 for Phase I and \$34,322,483 for Phase II. Both of these revenue requirements are based on a

³ If necessary, these expenditures can qualify as CREZ construction work in progress ("CWIP") under PURA § 35.004(d) or as a post test year adjustment under P.U.C. SUBST. R. 25.231(c)(2)(F).

⁴ *Application of Lone Star Transmission LLC to Establish Interim and Final Rates and Tariffs*, Docket No. 40020, Supplemental Preliminary Order at 3-4 (July 9, 2012).

historical year ended June 30, 2012, adjusted for known and measurable changes, a rate base of \$183,153,520, and an overall rate of return of 7.73%, which is calculated using a capital structure of 60% debt and 40% equity, a cost of debt of 5.624% and a return on equity of 10.9%.

Under WETT's preferred approach, rates will not be implemented for its Phase I or Phase II assets until after they are completed and capable of being put into service. WETT's preferred proposal is consistent with the process employed in Docket No. 40020 and allows WETT's investment and expenses to be included in rates in a reasonable manner to address its status as a new-entrant transmission utility. The Commission decided to bring new, outside investors into the Texas market in Docket No. 35665, and it and other parties understood that fair and compensatory rates would have to be set for the new entrants. To do otherwise would compromise the new entrants' ability to energize and operate their facilities safely and reliably, discourage future investors from coming to Texas, and compromise the very purposes for which new entrants were selected in the first place.

The process proposed by WETT in this case will provide regulatory efficiency and will reduce the disproportionate losses it could incur due to regulatory lag. Filing this case before the Phase I plant is completed allows rates to be implemented at the time those facilities are capable of providing service, while determining Phase II operating expenses in this case and then including them in rates when Phase II assets are capable of providing service avoids the need for, and lag associated with, an immediate second rate case to address those expenses. As a result, WETT requests that the Commission approve its proposed rates in this case, and its proposed process for a subsequent interim TCOS filing, to reduce the substantial losses WETT would otherwise incur as a new entrant.

II. DESCRIPTION OF WETT

WETT, a Texas Limited Liability Company formed in 2008, is a new entrant in the Texas electric utility market. WETT is owned by WETT Holdings LLC (“WETT Holdings”), which in turn is equally owned and managed by (1) Iccenlux Corp., a subsidiary of Isolux Corsán Concesiones, S.A. (“Isolux Concesiones”), which is ultimately owned by Grupo Isolux Corsán, S.A. (“Grupo Isolux”); and (2) Brookfield-CREZ SPV LLC (“Brookfield SPV”), which is ultimately owned by Brookfield Asset Management, Inc. (“Brookfield”). Brookfield and Grupo Isolux are worldwide leaders in electric transmission development.

WETT was designated as a CREZ Transmission Service Provider (“TSP”) in P.U.C. Docket No. 35665 and in three subsequent cases was granted a certificate of convenience and necessity (“CCN”) and two amendments to build transmission facilities in P.U.C. Docket Nos. 38295, 38484, and 38825. The facilities approved in Docket Nos. 38295 and 38484 (also referred to as “CCN1” and “CCN2”) constitute the Phase I Projects, which are expected to be completed and capable of being put into service in March 2013. The Docket No. 38825 facilities, or “CCN3,” constitute the Phase II Projects and are expected to be completed and capable of being put into service in May 2013. WETT, as an investor-owned electric utility within the terms of the Public Utility Regulatory Act (“PURA”)⁵, is making a substantial capital investment in the state’s transmission system with the expectation it will have the opportunity to earn a reasonable return on that investment and to recover its reasonable and necessary expenses.

WETT’s CREZ facilities consist of approximately 374 miles of transmission line and five switching stations. In addition, ERCOT has approved a sixth CREZ-related switching station, the Faraday Switching Station, which WETT will construct with CCN3 facilities. After

⁵ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp.2011) (PURA).

extensive coordination with ERCOT and other TSPs, WETT anticipates the following dates for these facilities to be capable of providing service:

Project Reference	Transmission Facilities	Switching Station Facilities	Expected Date of Capability of Providing Service
CCN1 (Phase I)	Cottonwood to Scurry County South	Cottonwood	March 31, 2013
CCN2 (Phase I)	Scurry County South to Long Draw Long Draw to Grelton Grelton to Odessa	Long Draw Grelton	March 31, 2013
CCN3 (Phase II)	Long Draw to Sand Bluff Sand Bluff to Divide Sand Bluff to Bearkat	Sand Bluff Bearkat Faraday	May 15, 2013

III. BUSINESS ADDRESS AND AUTHORIZED REPRESENTATIVES

WETT's business address and telephone number are:

Wind Energy Transmission Texas, LLC
210 Barton Springs Road, Suite 150
Austin, Texas 78704-1212
Telephone: (512) 279-7369

WETT's authorized representative is:

Wayne Morton
General Manager
210 Barton Springs Road, Suite 150
Austin, Texas 78704-1212
Telephone: (512) 279-7393
Facsimile: (512) 279-7398

WETT's legal representatives in this proceeding are:

Dennis W. Donley, Jr.

Stephen F. Morris
Stephanie S. Potter
Naman, Howell, Smith & Lee, PLLC
8310 Capital of Texas Hwy., North
Suite 490
Austin, Texas 78731
Telephone: (512) 479-0300
Facsimile: (512) 474-1901

WETT requests that all pleadings, motions, orders, and other documents filed in this proceeding be served upon Dennis W. Donley, Jr. at the above stated address.

IV. JURISDICTION

The Commission has jurisdiction over this application pursuant to PURA §§ 35.004 and 36.001.

V. AFFECTED PERSONS AND TERRITORIES

The Application affects all providers of distribution service in the Electric Reliability Council of Texas ("ERCOT") taking service under WETT's Tariffs for Wholesale Transmission Service.

VI. NOTICE

WETT's proposed notice is attached as Exhibit A. WETT proposes notice of this application by direct first class mail to all entities listed in the Commission's transmission matrix in P.U.C. Docket No. 39916, *Commission Staff's Application to Set 2012 Wholesale Transmission Service Rates for the Electric Reliability Council of Texas*.

Additionally, WETT will provide a copy of its Application to the parties or entities that submitted comments in P.U.C. Docket No. 36856, *Application of Wind Energy Transmission Texas, LLC for Approval of its Code of Conduct and Organizational Structure*, and P.U.C. Docket No. 38568, *Application of Wind Energy Transmission Texas, LLC for a Limited Waiver with Respect to its Code of Conduct*.

VII. EFFECTIVE DATE

In accordance with PURA §§ 36.102 and 36.108, WETT proposes an effective date 35 days after the date of this filing, so that suspension of the effective date for 150 days pursuant to § 36.108 to utilize the standard 185-day rate case timeline will result in a final order shortly before the Phase I facilities are completed.

Should this proceeding not be completed in the timeline described, WETT would seek implementation of its proposed rates under bond until such time as the final rate order is issued.

VIII. DETAILED DESCRIPTION OF THE APPLICATION

WETT's rate filing package includes this Application and its exhibits, direct testimony and supporting workpapers of 11 witnesses, Commission-required schedules supporting WETT's requested Phase I and Phase II revenue requirements under its alternative procedural approaches, proposed tariffs for wholesale transmission service, and a rate case expense rider.

A. Witnesses

Direct testimony is presented by the following witnesses, who address the topics indicated below:

Witness Name	Position	Subject of Testimony
Wayne Morton	General Manager, WETT	Introduction, request, identification of witnesses; need for WETT's requests; rate base overview, including organization and development costs; operations expenses; administrative and general expenses; engineering, procurement, and construction ("EPC") agreement negotiations and affiliate issues; deferred accounting.
Bradley Ballard	Asset Management Director, WETT	Land acquisition costs; maintenance expenses; project management and administration of the EPC agreement between WETT and Isolux Ingeniería USA, LLC ("I-USA").
Bruce Fairchild	Principal, Financial Concepts and Applications, Inc. ("FINCAP")	Revenue requirements; accounting information; cost of debt; rate design; transmission tariffs.

Witness Name	Position	Subject of Testimony
Robert Hevert	Managing Partner, Sussex Economic Advisors	Return on equity; capital structure; overall rate of return.
Dane Watson	Principal, Alliance Consulting Group	Depreciation rates.
Jay Joyce	President, Expergy	Lead-Lag Study.
Gregory Wilson	Vice President and Principal, Lewis & Ellis Actuaries & Consultants	Self-insurance reserve.
Thomas Flaherty	Senior Vice President, Booz & Co.	Reasonableness of the EPC agreement, affiliate charges, and WETT's project management process and contract administration; comparative evaluation of the EPC agreement.
Daryl Pullin	Vice President, Science Applications International Corporation ("SAIC," formerly R. W. Beck, Inc.)	Reasonableness of the EPC agreement from a project scheduling, cost, and engineering perspective; SAIC's role in assisting WETT in negotiating the EPC agreement; SAIC's responsibilities and functions regarding EPC contract administration; reasonableness of charges submitted to WETT under the EPC agreement.
Brett Perlman	President, Vector Advisors	Policy governing affiliate transactions; need for new entrants to set rates before energizing facilities; policy, laws, and rules governing use of construction work in progress and deferred accounting.
J. Kay Trostle	Partner, Smith, Trostle & Huerta	Rate case expenses.

B. Rate Request

Because WETT is a new entrant, this application raises many issues distinct from those in incumbent utility rate cases. As previously mentioned, WETT proposes to address these circumstances equitably by bringing this filing before its facilities are capable of providing service.

WETT is filing this rate case pursuant to Chapter 36 of PURA, whereby WETT is requesting that the Commission set two rates,⁶ one to be implemented when its Phase I facilities

⁶ Because WETT is a new entrant and has no existing rates, the Company's request does not increase or decrease rates, but rather establishes initial rates.

are completed and the other to be implemented when its remaining CREZ assets are completed. As noted previously, the difference between the two rates is the levels of maintenance expenses, administrative and general expenses, and taxes other than income, which increase when the Phase II facilities are complete and capable of providing service.

WETT's preferred option for addressing its capital expenditures is to include its Phase I capital expenditures as of June 30, 2012,⁷ in rate base in this case and to include its subsequent Phase I capital expenditures and its Phase II capital expenditures in an interim TCOS update, with said update to be filed before Phase II is capable of providing service so rates can be implemented when Phase II is capable of providing service. For both phases of rates, WETT's expenses are determined using the historical year ended June 30, 2012, adjusted for known and measurable changes in accordance with P.U.C. SUBST. R. 25.231(b). This is similar to the procedure adopted in Docket 40020.

However, should WETT's preferred procedure not be adopted, WETT proposes in the alternative to include in its rates at this time its Phase I capital expenditures as of June 30, 2012, plus its Phase II capital expenditures as of June 30, 2012 (as CREZ CWIP), to be effective when Phase I facilities are capable of providing service.

1. Capital Investment

a) WETT's preferred approach

Capital investment associated with Phase I totaled \$183,153,520 as of June 30, 2012. This is the rate base amount sought assuming WETT's preferred procedure is adopted.⁸

⁷ If necessary, these expenditures can qualify as CREZ construction work in progress ("CWIP") under PURA § 35.004(d) or as a post test year adjustment under P.U.C. SUBST. R. 25.231(c)(2)(F).

⁸ If for any reason the Commission finds that WETT's Phase I capital investment should not be included in rate base as described above, then in the alternative, WETT requests appropriate post-test year adjustments to its rate base and any good cause exceptions needed to support such be approved as well. P.U.C. SUBST. R. § 25.231(c)(2)(F).

Accordingly, the Application supports wholesale transmission rates necessary to recover a Phase I revenue requirement of \$31,194,856. WETT is also requesting approval of a Phase II revenue requirement of \$34,322,483, to be effective when those facilities are capable of being put into service. WETT is requesting that the Commission approve the increase in its revenue requirement based upon known and measurable changes to certain expenses associated with Phase II facilities. Under WETT's preferred method, while statutory authority exists to request recovery for all CWIP associated with its facilities at this time under PURA § 35.004(d), WETT is not including any Phase II CWIP in rate base at this time. Instead, it is requesting its rates be effective only when the related facilities are capable of providing service. Under the preferred approach, WETT is *not* requesting that rate payers be charged a rate prior to a facility being capable of providing service; for that reason, capital investment for Phase II facilities will not be included in rates until those facilities are capable of providing service. Additionally, WETT expects to file an update to its capital expenditures during the pendency of its rate case. This update will capture post-June 30, 2012 capital expenditures and will be filed early enough for Staff and intervenors to review the update and conduct discovery prior to filing their respective testimony.

b) WETT's alternative approach

In the event WETT's preferred method is not adopted, WETT proposes to include in its rates both its Phase I capital expenditures as of June 30, 2012, plus its Phase II capital expenditures as of June 30, 2012 (as CREZ CWIP) to be effective when Phase I facilities are capable of providing service. WETT's Phase II CWIP balance as of June 30, 2012 totals \$69,417,188, as reflected in Alternate Schedule II-B-4. The inclusion of Phase II CWIP in rate base would make WETT's total rate base \$252,653,123 and its revenue requirements would be

\$38,251,264 when Phase I is capable of providing service and \$41,378,891 when Phase II is capable of providing service. As with WETT's preferred approach, WETT will file an update to its capital expenditures during the pendency of its rate case. This update will capture post-June 30, 2012 capital expenditures and will be filed early enough for Staff and intervenors to review the update and conduct discovery prior to filing their respective testimony. Again, please note that WETT is requesting the inclusion of Phase II CWIP in rate base at this time only if its preferred interim TCOS procedure described above is not adopted.

2. Expenses

WETT proposes that its allowable expenses be determined consistent with PUC rules, which require the use of "a historical test year, adjusted for known and measurable changes." WETT was formed in 2008 and thus has historical operating expenditures that can be used as a basis for determining the expenses that will be incurred at the time rates approved in this proceeding go into effect. In order to accurately reflect WETT's rate-year expenditures, historical expenditures are adjusted for known and measurable changes in the rate application. These expenses can be determined with a reasonable level of accuracy by company witnesses or qualified experts testifying under oath and, therefore, are known and measurable. Such known and measurable changes include facility operating expenses (e.g., control center leased space, staff, and communications equipment), maintenance expenses and administrative and general ("A&G") expense. WETT requests that such known and measurable changes be applied to adjust its historical year expenditures to be reflective of its expenses when facilities are capable of providing service and being operated.

a) *Operations Expenses*

Operations expenses, such as the expense of running the control centers, are necessary regardless of the amount of facilities WETT has completed. Thus, WETT is requesting that they be implemented in full as soon as WETT's first transmission facilities are capable of providing service.

b) *Maintenance and Administrative and General Expenses*

WETT requests in this proceeding that the Commission approve as part of its revenue requirements the maintenance expenses and A&G expenses associated with Phase I facilities. WETT also requests that the Commission approve in this proceeding an increase in its revenue requirements reflecting the additional maintenance expenses and A&G expenses associated with Phase II facilities, which would be included in rates when Phase II facilities are capable of providing service.

The maintenance and A&G expenses associated with Phase II facilities comprise over 35% of the total of these expenses. Because the Phase II facilities are expected to be capable of providing service a few months after completion of the Phase I facilities, WETT believes it is more efficient and a better use of Commission resources to consider these costs in this proceeding rather than requiring WETT to operate facilities at a loss and to file another general rate case immediately after the Phase II facilities are completed, to seek inclusion of expenses.

The reason that WETT has not requested that *all* of its maintenance and A&G expenses be included in its Phase I revenue requirement is that those expenses will increase when the Phase II facilities are completed. In particular, maintenance expenses will vary depending on the length of transmission line and number of substations capable of providing service. Similarly, A&G expenses are allocated among the Phase I and Phase II facilities, in accordance with FERC

accounting rules governing such treatment of A&G expenses. Thus, WETT asks that these expenses be included in its rates as the related facilities become capable of providing service, as this Commission has permitted in the past.⁹

c) Deferred Accounting

As an alternative request, to the extent WETT's expenses are not included in its revenue requirements because they are not accepted as known and measurable changes, WETT respectfully requests a deferred accounting order to capture such expenses incurred beyond the historical year that would otherwise be unrecoverable. WETT does not seek review or final approval for recovery of any such expenses deferred in this proceeding. It does, however, seek a Commission order that would allow WETT to preserve expenses not included in revenue requirements in this case for future review, in the event that any of such expenses are not considered known and measurable changes and applied to adjust historical year expenses. Upon Commission approval of WETT's request for deferred accounting, the Company would record any operating expenses not otherwise approved as part of its rate application. These expenses would be recorded on WETT's balance sheet as a regulatory asset for financial reporting purposes, and the Company would accrue carrying costs at its overall rate of return authorized by the Commission in this rate case. These expenses would be subject to review for reasonableness in a future rate proceeding, which would also address amortization and recovery of any deferred expenses in rates. This is similar to the approach taken with certain new entrant costs in a previous Commission rate case.¹⁰

⁹ See, e.g., *Application of Oncor Electric Delivery Company LLC for Authority to Change Rates*, Docket No. 38929, Order- Finding of Fact 43, Conclusion of Law 13, Ordering Paragraph 2 (Aug. 26, 2011) (phase-in of electric rates); *Re: Central Power and Light Company*, Docket No. 14965, Order at 8 (March 31, 1997) (phase-out of electric rates).

¹⁰ *Application of Sharyland Utilities, L.P. for Authority to Establish Initial Rates*, Docket No. 21591, Final Order at 8, Conclusions of Law Nos. 7, 8 (Jul. 25, 2000) ("The proposed cost deferral mechanism provides a just and reasonable method for a start-up utility such as [Sharyland] to recover its prudently incurred costs"; "[Sharyland's]

C. Proposed Tariffs, Rider, and Schedules

Exhibit B to the Application sets forth the tariffs and rider that WETT is asking the Commission to approve: Exhibit B1 sets forth the tariffs for WETT's preferred approach and Exhibit B2 sets forth the tariffs for WETT's alternative approach.

Sections I-A through V-K-12 of WETT's rate filing package provide the Commission-required schedules supporting WETT's requested revenue requirement. WETT has provided a separate set of schedules for its preferred and alternative approaches for invested capital.

1. Wholesale Transmission Service Rate Tariff

Application Exhibit B1 contains WETT's proposed tariff for Wholesale Transmission Service based on its preferred approach for determining its capital investment. The tariff defines the availability and applicability of the wholesale transmission service, the conditions precedent for receiving service, provisions for the construction of new facilities, the pricing of the service, and other information related to the Company's provision of transmission service. Under WETT's preferred approach, WETT proposes this tariff to reflect its cost of providing transmission service, which is \$0.47998 per kW per year for Phase I facilities and \$0.52810 per kW per year for Phase II facilities. Under WETT's alternative approach, Application Exhibit B2 reflects WETT's cost of providing transmission service including Phase II CWIP, which is \$0.58855 per kW per year for Phase I facilities and \$0.63667 per kW per year for Phase II facilities.

2. Rate Case Expense Rider

Through the Rate Case Expense Rider ("RCE Rider"), WETT seeks to recover all reasonable and necessary rate case expenses incurred by WETT in this and related proceedings

proposed deferral mechanism is consistent with applicable legal precedent and is just, reasonable and in the public interest.").

and by any intervening city awarded rate case expense recovery. The RCE Rider is designed so that WETT recovers rate case expenses approved by the Commission over a 24-month period.

In a motion filed contemporaneously with this Application, WETT requests that the Commission sever all rate case expense issues into a separate proceeding to be considered after the conclusion of the underlying rate case.

**IX. REQUEST FOR APPROVAL OF PROPOSED PROCESS FOR INCLUDING
SUBSEQUENT CAPITAL INVESTMENT IN RATES**

As indicated above, WETT's preferred procedural approach proposes to incorporate its additional capital investment in Phase I facilities and its capital investment in its Phase II facilities through an interim TCOS update process allowed by P.U.C. SUBST. R. 25.192(h). Typically, interim TCOS updates include only plant in service, not any additional capital investment prior to its being put into service. However, WETT requests that additional capital investment expended for its facilities be allowed in a subsequent interim TCOS proceeding to be commenced while the facilities are still under construction, with the updated rates to go into effect once the facilities are capable of providing service (a date expected to be at or near the conclusion of the interim TCOS proceeding). Good cause exists for this request because the capital investment at issue would actually be the majority of WETT's rate base, and without such treatment WETT would incur depreciation expense on the vast majority of its facilities for which it would have no opportunity to recover in rates.

WETT believes this proposal mirrors the process recently approved by the Commission in Docket No. 40020. Accordingly, to the extent necessary, WETT requests a good cause exception under P.U.C. SUBST. R. 25.3(b) to support this process. If this request is not approved, WETT requests that the Commission adopt its alternative approach for inclusion of invested

capital in rates.

X. MOTION TO ENTER PROTECTIVE ORDER

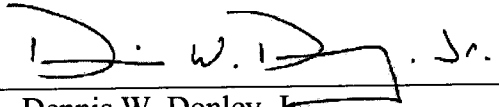
WETT respectfully requests that the Commission's standard Protective Order, a draft of which is attached as Exhibit C, be entered by the Commission as soon as possible in order to protect confidential material produced in this proceeding. WETT has designated certain documents included in its rate filing package as either Protected Material or Highly Sensitive Protected Material and anticipates a protective order being necessary for the Company and other parties to submit additional documents containing confidential material during the course of this proceeding.

XI. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, WETT respectfully prays this Honorable Commission approve and authorize the Company's initial rates proposed by WETT in its accompanying filings and testimony and grant such other and further relief to which it may be justly entitled.

Respectfully submitted,

NAMAN, HOWELL, SMITH & LEE, PLLC
8310 N. Capital of Texas Highway, Suite 490
Austin, Texas 78731
Telephone: 512-479-0300
Facsimile: 512-474-1901

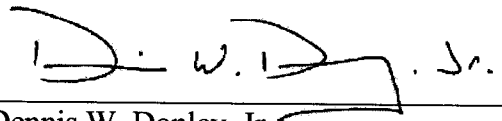
By: 
Dennis W. Donley, Jr.
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cmalish@namanhowell.com

*ATTORNEYS FOR WIND ENERGY
TRANSMISSION TEXAS, LLC*

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Application together with testimony, proposed tariffs, schedules, and workpapers, had been hand delivered or sent via courier service to PUC Legal and the Office of Public Utility Counsel, on this ____ day of August, 2012, and that WETT will otherwise comply with the notice and service requirements described in Section VI of this Application.



Dennis W. Donley, Jr.

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NOTICE OF INITIAL RATE REQUEST

[Date]

[Title]

[Address 1]

[Address 2]

[City], TX [zip]

On [date], Wind Energy Transmission Texas, LLC (“WETT”) filed with the Public Utility Commission of Texas (“Commission”) its Application for Authority to Establish Initial Rates and Tariffs (“Application”), along with its Transmission Cost of Service Rate Filing Package. This Application has been assigned Docket No. 40606. Copies of the Application and complete Rate Filing Package can be viewed at WETT’s office at 210 Barton Springs Road, Suite 150, Austin, Texas 78704-1212, and may also be viewed online at the Commission’s website (www.puc.state.tx.us).

WETT has proposed initial rates for providing wholesale transmission service that would be charged to Electric Reliability Council of Texas (“ERCOT”) distribution service providers consistent with the Commission’s rules. Because WETT is a new electric utility operating in the State of Texas and does not currently have rates, WETT’s requested rates represent neither an increase nor decrease to its current rates.

WETT is proposing that its initial rates be based on proposed annual revenues of \$31,194,856, which represents part of the first phase of its transmission system and to be effective when the first phase is completed. WETT is also requesting a revenue requirement of \$34,322,483 to be effective when the second phase of its transmission system is completed. In the event this proposal is not adopted, WETT has included an alternative proposal.

WETT’s alternative proposal is to have its initial rates be based on proposed annual revenues of \$38,251,264, which represents part of the first phase of its transmission system, and a proposed revenue requirement of \$41,378,891 to be effective when the second phase of its transmission system is completed. WETT’s alternative proposal includes construction work in progress in rate base and is presented in the event its preferred approach is not adopted. Both of WETT’s proposals are based on a historical year ended June 30, 2012.

210 Barton Springs Road, Suite 150 · Austin, TX 78704-1212 · 512.279.7369 phone 512.279.7398 fax

www.windenergyoftexas.com

PUC DOCKET NO. 40606

EXHIBIT “A”

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In addition to its initial tariffs reflecting its revenue requirements, WETT also requests approval of its Rate Case Expense Rider tariff. Through this rider, WETT seeks to recover all of its reasonable and necessary rate case expenses incurred, as well as reasonable and necessary rate case expenses of any intervening city. This rider is designed to recover these rate case expenses approved by the Commission over a 24-month period from WETT's transmission service customers.

This Application affects all transmission and distribution service providers and distribution service providers in the ERCOT electric market.

Persons who wish to intervene in or comment upon these proceedings should notify the Commission as soon as possible, as an intervention deadline will be imposed. A request to intervene or for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Interested persons should reference Docket No. 40606 when corresponding with the Commission. Further information may also be obtained by calling the Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. The deadline for intervention in the proceeding is 45 days after the application was filed with the Commission.

Wind Energy Transmission Texas, LLC

**Tariff for Electric Service
Wind Energy Transmission Texas, LLC**

WHOLESALE TRANSMISSION SERVICE (WTS) RATE

Application: Entire System
Original
Effective Date:

Section No: _____
Sheet No.: _____
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WHOLESALE TRANSMISSION SERVICE (WTS) RATE

Availability

This tariff for Wholesale Transmission Service is available for Wholesale Transmission Service using any transmission facilities owned by Wind Energy Transmission Texas, LLC (WETT), in accordance with PUC Substantive Rules 25.191 through 25.203 ("Transmission Rules"). Wholesale Transmission Service is available through WETT's transmission system.

Applicability

Wholesale Transmission Service is provided on a non-discriminatory basis to any eligible Transmission Service Customer, as that term defined by the Transmission Rules. This service is applicable to wholesale transactions involving the wholesale purchase and sale of electric power and energy.

Type of Service

Three phase, 60 hertz alternating current, delivered onto or received from the WETT's transmission system at 60,000 volts or higher, and on transmission facilities which have been prepared and made available for this service.

Transmission Service Requirements

As a condition to obtaining Wholesale Transmission Service, the eligible Transmission Service Customer that is physically connected to WETT's transmission system shall execute an Interconnection Agreement with WETT, containing terms and provisions consistent with the Transmission Rules, prior to commencement of such service.

Conditions Precedent for Receiving Service

Subject to the terms and conditions hereof and of the Transmission Rules, WETT will provide Wholesale Transmission Service to any eligible Transmission Service Customer, provided that:

- (A) the Transmission Service Customer has executed an Agreement for Wholesale Transmission Service;

**Tariff for Electric Service
Wind Energy Transmission Texas, LLC**

WHOLESALE TRANSMISSION SERVICE (WTS) RATE

Application: Entire System
Original
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-
- (B) the Transmission Service Customer and WETT, or a third party, have completed installation of all equipment specified under the Interconnection Agreement, consistent with the National Electric Reliability Corporation (NERC) and ERCOT guidelines set forth in the Transmission Rules;
 - (C) the Transmission Service Customer, if directly connected to WETT's transmission system, has an executed Interconnection Agreement for Wholesale Transmission Service under this tariff or, if necessary, requested in writing that WETT file a proposed unexecuted agreement with the Public Utility Commission of Texas;
 - (D) each wholesale load for which Wholesale Transmission Service is requested maintains a power factor of 95% or greater at each point of interconnection;
 - (E) the Transmission Service Customer has constructed, maintains and operates the facilities on its side of each point of interconnection that are necessary to reliably interconnect and deliver power from a resource to WETT's transmission system and from WETT's transmission system to the Transmission Service Customer's loads;
 - (F) to the extent that the Agreement for Transmission Service requires the addition of facilities or upgrades to the transmission system, such facilities or upgrades have been placed in service; and
 - (G) the Transmission Service Customer has complied with all Transmission Rules.

Construction of New Facilities

Construction of transmission facilities needed to accommodate a request for Wholesale Transmission Service shall be in accordance with the procedures set forth in the Transmission Rules. Upon receipt of a request for Wholesale Transmission Service, ERCOT shall, if necessary, initiate a System Security Screening Study in accordance with the Transmission

**Tariff for Electric Service
Wind Energy Transmission Texas, LLC**

WHOLESALE TRANSMISSION SERVICE (WTS) RATE

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Rules. Based on the results of the System Security Screening Study, if additions or upgrades to the transmission system are needed to supply the Transmission Service Customer's forecasted transmission requirements, WETT will, upon the approval of the requesting Transmission Service Customer, initiate a facilities study, in accordance with the Transmission Rules. An executed Facility Study Agreement with the Transmission Service Customer is required prior to WETT performing a facilities study. In the event that existing facilities are inadequate to support the requested Wholesale Transmission Service, the Transmission Service Customer may be required to provide a contribution in aid of construction, as provided in the Transmission Rules.

Load Shedding and Curtailment

Wholesale Transmission Service hereunder shall be subject to, and WETT and the Transmission Service Customer will comply with, the load shedding and curtailment procedures established under the Transmission Rules.

Pricing

Charges for Wholesale Transmission Service shall be in accordance with the Transmission Rules. The Wholesale Transmission Service Rate for WETT is as follows:

	<u>Annual</u>	<u>Monthly</u>
Wholesale Transmission Service Rate (CCN1-2):	\$ 0.47998 per kW	\$0.04000 per kW
Wholesale Transmission Service Rate (CCN3):	\$0.52810 per kW	\$0.04401 per kW

The Wholesale Transmission Service Rate (CCN1-2) shall become effective upon the CCN1 and CCN2 facilities becoming capable of providing service. The Wholesale Transmission Service Rate (CCN3) shall become effective upon the CCN3 facilities becoming capable of providing service.

Voltage Support

WETT will provide all devices necessary to maintain proper operating voltages on the transmission system in accordance with good utility practice for voltage support and in accordance with the requirements of the ERCOT ISO, or its successor.

**Tariff for Electric Service
Wind Energy Transmission Texas, LLC**

WHOLESALE TRANSMISSION SERVICE (WTS) RATE

Application: Entire System
Original
Effective Date:

Section No: ____
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Reliability Guidelines

To maintain reliability of the ERCOT transmission grid, WETT shall operate its transmission system in accordance with ERCOT Protocols and Operating Guides, NERC guidelines, and any guidelines of the ISO that may apply to WETT's transmission system. WETT reserves the right, consistent with good utility practice and on a non-discriminatory basis, to interrupt Wholesale Transmission Service without liability on WETT's part for the purpose of making necessary adjustments to, changes in, or repairs to its lines, substations, and other facilities, or where the continuance of Wholesale Transmission Service would endanger persons or property. In the event of any adverse condition or disturbance on WETT's transmission system or on any other system directly or indirectly interconnected with WETT's transmission system, WETT, consistent with good utility practice, also may interrupt Wholesale Transmission Service on a non-discriminatory basis in order to limit the extent or damage of the adverse condition or disturbance, to prevent damage to generating or transmission facilities, or to expedite restoration of service.

WETT will give the Transmission Service Customer as much advance notice as is practicable in the event of such interruption, and shall restore service with due diligence.

Payment

Any charges due to WETT under this rate schedule shall be billed in accordance with the Transmission Rules. The Transmission Service Customer shall make payment to WETT in a manner consistent with the procedures and deadlines set forth in the Transmission Rules. Any late payments by Transmission Service Customer or Transmission Service Customer default shall be handled in accordance with the Transmission Rules.

Amendment to Rules

In the event the Transmission Rules are amended or if a new rule is adopted governing the subject matter of this tariff, this tariff shall, nevertheless, remain effective until new tariff(s) filed pursuant to any such amendment(s) or such new rule are approved, unless the amendment(s) or new rule or an agreement of the parties provide otherwise.

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WHOLESALE TRANSMISSION SERVICE (WTS) RATE

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Rate-Case Expense Surcharge

In addition to the above charges, the Transmission Service Customer shall pay a monthly rate of _____ per kW of coincident peak demand for 24 months after the effective date of this rate schedule or until the rate case expense approved in Docket No. _____ are fully recovered.

Notice

This rate schedule is subject to WETT's Tariff and Applicable Legal Authorities.

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WHOLESALE TRANSMISSION SERVICE (WTS) RATE

Availability

This tariff for Wholesale Transmission Service is available for Wholesale Transmission Service using any transmission facilities owned by Wind Energy Transmission Texas, LLC (WETT), in accordance with PUC Substantive Rules 25.191 through 25.203 ("Transmission Rules"). Wholesale Transmission Service is available through WETT's transmission system.

Applicability

Wholesale Transmission Service is provided on a non-discriminatory basis to any eligible Transmission Service Customer, as that term defined by the Transmission Rules. This service is applicable to wholesale transactions involving the wholesale purchase and sale of electric power and energy.

Type of Service

Three phase, 60 hertz alternating current, delivered onto or received from the WETT's transmission system at 60,000 volts or higher, and on transmission facilities which have been prepared and made available for this service.

Transmission Service Requirements

As a condition to obtaining Wholesale Transmission Service, the eligible Transmission Service Customer that is physically connected to WETT's transmission system shall execute an Interconnection Agreement with WETT, containing terms and provisions consistent with the Transmission Rules, prior to commencement of such service.

Conditions Precedent for Receiving Service

Subject to the terms and conditions hereof and of the Transmission Rules, WETT will provide Wholesale Transmission Service to any eligible Transmission Service Customer, provided that:

- (A) the Transmission Service Customer has executed an Agreement for Wholesale Transmission Service;

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- (B) the Transmission Service Customer and WETT, or a third party, have completed installation of all equipment specified under the Interconnection Agreement, consistent with the National Electric Reliability Corporation (NERC) and ERCOT guidelines set forth in the Transmission Rules;
 - (C) the Transmission Service Customer, if directly connected to WETT's transmission system, has an executed Interconnection Agreement for Wholesale Transmission Service under this tariff or, if necessary, requested in writing that WETT file a proposed unexecuted agreement with the Public Utility Commission of Texas;
 - (D) each wholesale load for which Wholesale Transmission Service is requested maintains a power factor of 95% or greater at each point of interconnection;
 - (E) the Transmission Service Customer has constructed, maintains and operates the facilities on its side of each point of interconnection that are necessary to reliably interconnect and deliver power from a resource to WETT's transmission system and from WETT's transmission system to the Transmission Service Customer's loads;
 - (F) to the extent that the Agreement for Transmission Service requires the addition of facilities or upgrades to the transmission system, such facilities or upgrades have been placed in service; and
 - (G) the Transmission Service Customer has complied with all Transmission Rules.

Construction of New Facilities

Construction of transmission facilities needed to accommodate a request for Wholesale Transmission Service shall be in accordance with the procedures set forth in the Transmission Rules. Upon receipt of a request for Wholesale Transmission Service, ERCOT shall, if necessary, initiate a System Security Screening Study in accordance with the Transmission

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Rules. Based on the results of the System Security Screening Study, if additions or upgrades to the transmission system are needed to supply the Transmission Service Customer's forecasted transmission requirements, WETT will, upon the approval of the requesting Transmission Service Customer, initiate a facilities study, in accordance with the Transmission Rules. An executed Facility Study Agreement with the Transmission Service Customer is required prior to WETT performing a facilities study. In the event that existing facilities are inadequate to support the requested Wholesale Transmission Service, the Transmission Service Customer may be required to provide a contribution in aid of construction, as provided in the Transmission Rules.

Load Shedding and Curtailment

Wholesale Transmission Service hereunder shall be subject to, and WETT and the Transmission Service Customer will comply with, the load shedding and curtailment procedures established under the Transmission Rules.

Pricing

Charges for Wholesale Transmission Service shall be in accordance with the Transmission Rules. The Wholesale Transmission Service Rate for WETT is as follows:

	<u>Annual</u>	<u>Monthly</u>
Wholesale Transmission Service Rate (CCN1-2):	\$0.58855 per kW	\$0.04905 per kW
Wholesale Transmission Service Rate (CCN3):	\$0.63667 per kW	\$0.05056 per kW

The Wholesale Transmission Service Rate (CCN1-2) shall become effective upon the CCN1 and CCN2 facilities becoming capable of providing service. The Wholesale Transmission Service Rate (CCN3) shall become effective upon the CCN3 facilities becoming capable of providing service.

Voltage Support

WETT will provide all devices necessary to maintain proper operating voltages on the transmission system in accordance with good utility practice for voltage support and in accordance with the requirements of the ERCOT ISO, or its successor.

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Reliability Guidelines

To maintain reliability of the ERCOT transmission grid, WETT shall operate its transmission system in accordance with ERCOT Protocols and Operating Guides, NERC guidelines, and any guidelines of the ISO that may apply to WETT's transmission system. WETT reserves the right, consistent with good utility practice and on a non-discriminatory basis, to interrupt Wholesale Transmission Service without liability on WETT's part for the purpose of making necessary adjustments to, changes in, or repairs to its lines, substations, and other facilities, or where the continuance of Wholesale Transmission Service would endanger persons or property. In the event of any adverse condition or disturbance on WETT's transmission system or on any other system directly or indirectly interconnected with WETT's transmission system, WETT, consistent with good utility practice, also may interrupt Wholesale Transmission Service on a non-discriminatory basis in order to limit the extent or damage of the adverse condition or disturbance, to prevent damage to generating or transmission facilities, or to expedite restoration of service.

WETT will give the Transmission Service Customer as much advance notice as is practicable in the event of such interruption, and shall restore service with due diligence.

Payment

Any charges due to WETT under this rate schedule shall be billed in accordance with the Transmission Rules. The Transmission Service Customer shall make payment to WETT in a manner consistent with the procedures and deadlines set forth in the Transmission Rules. Any late payments by Transmission Service Customer or Transmission Service Customer default shall be handled in accordance with the Transmission Rules.

Amendment to Rules

In the event the Transmission Rules are amended or if a new rule is adopted governing the subject matter of this tariff, this tariff shall, nevertheless, remain effective until new tariff(s) filed pursuant to any such amendment(s) or such new rule are approved, unless the amendment(s) or new rule or an agreement of the parties provide otherwise.

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Notice

This rate schedule is subject to WETT's Tariff and Applicable Legal Authorities.

PUC DOCKET NO. 40606

APPLICATION OF WIND ENERGY	§	BEFORE THE
TRANSMISSION TEXAS, LLC	§	
FOR AUTHORITY TO	§	PUBLIC UTILITY COMMISSION
ESTABLISH INITIAL RATES	§	
AND TARIFFS	§	OF TEXAS

PROTECTIVE ORDER

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face "PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. 40606" (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.¹ Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public

¹ TEX. GOV'T CODE ANN. §§ 552.001-552.353 (Vernon 2004).

knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such documents or information or providing access to such documents to employees of the Reviewing Party (except as specified herein) would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not