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PROJECT NO. 41155

PROPOSED REVISIONS OR	§	BEFORE THE
ADDITIONS TO THE ERCOT	§	
TRANSMISSION PLANNING	§	PUBLIC UTILITY COMMISSION
GUIDELINES AND PROCEDURES	§	
SUBMITTED PURSUANT TO SUBST.	§	OF TEXAS
R. §25.361(d)(3)	§	

COMMENTS OF SOUTHERN SPIRIT TRANSMISSION LLC

Southern Spirit Transmission LLC (“SST” or “Southern Spirit”)¹ respectfully files these comments in response to Commission Staff’s November 21, 2023 Memorandum and ERCOT’s September 22, 2023 Request for Guidance in this project. SST is concerned that Staff’s and ERCOT’s recommendations would create regulatory uncertainty by suggesting that prior Commission decisions are reopened by a subsequent change of policy. Southern Spirit requests that the Commission address both the process guidance requested by ERCOT in this proceeding and the SST project-specific issues raised by Staff.

Background and Overview of Comments

The SST Project is a planned Direct Current (DC) interconnection between ERCOT and the southeastern United States. It was approved by the Federal Energy Regulatory Commission in May 2014 under Sections 210, 211 and 212 of the Federal Power Act, ensuring that it would not affect ERCOT’s jurisdictional status.² This Commission approved a CCN to interconnect SST to the ERCOT system in May 2017 and issued a series of Directives to ERCOT to study the effect of the interconnection on ERCOT.³ In the ensuing years, ERCOT resolved the Directives, and in September 2022 the Commission issued an order approving ERCOT’s resolution of the Directives,

¹ Formerly known as Southern Cross Transmission LLC.

² FERC Docket No. TX11-1-001, *Southern Cross Transmission LLC*, 147 FERC ¶ 61,113 (2014).

³ *Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk to Panola Double-Circuit 345-kV Transmission Line in Rusk and Panola Counties*, Docket No. 45624, Order on Rehearing (May 23, 2017), Revised Order Creating and Scoping Project (May 23, 2017).

closing oversight Project No. 46304, and opening a new project for completion of remaining issues.⁴

ERCOT resolved one of the Directives, Directive 6, by relying on its policy of not planning transmission to support DC Tie imports to conclude that no additional transmission would be required for the SST Tie. Now, in the wake of Winter Storm Uri and efforts to enhance ERCOT's access to generation, the ERCOT stakeholder process is considering PGRR 105, which would change existing policy and would plan the ERCOT transmission system to be able to accept full imports over DC Ties. PGRR 105 has prompted ERCOT's September 22 request for Commission input and Commission Staff's November 21 Memorandum in this Project.

In issuing its Order approving resolution of the Directives and closing Project No. 46304, the Commissioners expressed the goal of providing the regulatory certainty necessary for the SST project to move forward.⁵ In reliance on that Order and statements from the Commissioners, SST has moved forward aggressively with development activities and spending. Unfortunately, comments and filings by various parties related to PGRR 105 seem to call into question the level of regulatory certainty provided by the Commission's Project No. 46304 Order. These include suggestions by certain stakeholders that the Commission's Order remains open to interpretation, as well as the filing by Commission Staff that suggests any future change to ERCOT Rules can undo the previous Commission order. Regardless of the final outcome of PGRR 105, SST respectfully requests that the Commission reaffirm the regulatory certainty that it sought to provide in its Order in Project No. 46304.

SST respectfully disagrees with several of the conclusions in Staff's November 21 Memorandum:

- SST does not agree that PGRR 105 contradicts and would undo the resolution of Directive 6 as Staff suggests. Directive 6 was resolved based on existing ERCOT policy not to plan for DC Tie imports. The Commission approved that resolution and closed the oversight project for the Directives. Directive 6 does not prevent ERCOT or the Commission from reconsidering the policy not to plan the ERCOT system to accommodate maximum imports in light of events like Winter Storm Uri and the tightness of generation supply that has been experienced in ERCOT. Nor is it necessary

⁴ *Oversight Proceeding Regarding ERCOT Matters Arising Out of Docket No. 45624 (Application of the City of Garland to Amend a Certificate of Convenience and Necessity for the Rusk to Panola Double-Circuit 345-kV Transmission Line in Rusk and Panola Counties)*, Project No. 46304, Order Closing Project (Sept. 30, 2022).

⁵ https://texasadmin.com/tx/puct/open_meeting/20220929.

or appropriate to revisit the resolution of Directive 6, as Staff suggests, in order to change that policy. SST needs regulatory certainty to complete its project and the concept that the Directives will be reopened by a change of policy related to the Directives would perpetuate great uncertainty.

- The cost of transmission upgrades to ensure deliverability of DC Tie imports is unknown because it is not studied, but PGRR 105 would not diminish the Commission's authority to determine which transmission upgrades to approve. Additionally, PGRR 105 addresses Staff's concern that imports could divert existing dispatchable generation in ERCOT.
- Ensuring full deliverability of imports is unlikely to result in dependency on resources outside of ERCOT but would provide access to a large fleet of dispatchable resources hundreds of miles away in a different time zone and weather region.

Staff Issue 1: Policy Contravention

Staff's November 21 Memorandum states that "PGRR 105 contradicts the policies established by the Commission in the resolution of the directives" associated with the SST project and that adoption of PGRR 105 would "undo the resolution of those issues." Southern Spirit respectfully disagrees with Staff on both points. ERCOT's resolution of certain Directives relied upon application of then-existing policies while the resolution of others required the development and adoption by ERCOT of new policies through various revision requests. The Commission's approval of ERCOT's resolution of the Directives cannot reasonably be construed as a direction from the Commission that all such policies must remain frozen in place for all time. Nor does a change to the ERCOT Protocols or other binding documents "undo" a Commission order in a proceeding that has been decided and closed.⁶

All Commission decisions, like the Commission's Project No. 46304 Order closing out the SST Directives, occur at a point in time and rely on the rules in effect at that time. If Commission decisions are subject to being "undone" by future rule changes, then no market participant can have any regulatory certainty from any Commission decision since all rules – statutes, administrative rules, and ERCOT market rules – are always subject to change through the legislative, rulemaking, and revision request processes. As discussed below, SST appreciates the

⁶ For example, the Dec. 13, 2016 adoption of PGRR 042 *Regional Transmission Plan Modeling Practices and Load-Generation Imbalance Methodology* altered the transmission planning methodology used by ERCOT to justify its recommendation of the Houston Import Project. This change to the Planning Guide had no impact on the Commission's earlier Order approving the CCN for that project. See Docket No. 44547, *Application of Centerpoint Energy Houston Electric, LLC to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line Within Grimes, Harris, and Waller Counties*, Order on Rehearing (April 24, 2015).

Commission’s efforts to provide certainty concerning the ERCOT Directives. Arguments that previous Commission decisions would be undone by future policy changes undermine that certainty for SST specifically and for market participants generally.

Staff Issue 2: Cost Implications for ERCOT Consumers

Staff is concerned that upgrades may be required to ensure deliverability of DC tie imports and that this could impose costs on ERCOT consumers. Although Staff focuses on the Directive 6 study of the SST project, the SST project has been upgraded and reconfigured to meet new technical standards developed in response to other SST Directives and these project enhancements are expected to mitigate some of the issues identified in the study referenced by Staff. The issue of greater concern to policymakers should be that ERCOT policy precludes it from studying the extent of transmission upgrades that may be required to ensure deliverability of imports from either existing or new DC Ties.⁷ ERCOT currently counts on DC tie imports during summer and winter peaks as reflected in its Report on Capacity, Demand, and Reserves in the ERCOT Region (“CDR”) and Monthly Outlook for Resource Adequacy (“MORA”) reports⁸ but does not study whether the grid can accept such imports. Whatever the cost of such transmission upgrades might be, it will likely pale in comparison to the cost of another Uri-like event. Finally, the result of the ERCOT planning process is simply to recommend transmission upgrades. It is the Commission that decides whether any particular proposed transmission facility should be built – whether the benefits will exceed the costs. PGRR 105 would allow ERCOT’s planning process to provide additional information to the Commission directly relevant to the Commission’s evaluation of the reliability of the grid and the need for potential future improvements.

Staff also states that “imports over DC ties may have the potential to divert generation from existing dispatchable generation within the ERCOT region, resulting in reduced incremental reliability benefits.” Staff’s concern is misplaced because DC tie imports only cause native

⁷ Fortunately, full imports from the existing DC ties were deliverable during Winter Storm Uri and such imports proved essential to avoiding a system failure. However, this occurred when over 40 GW of native generation was unavailable and it is unknown whether such imports can be accepted by ERCOT in future emergency scenarios when less native generation is off-line. For the importance of DC tie performance during the Uri event, see Public Utility Commission of Texas, *Biennial Agency Report to the 88th Texas Legislature*, Jan. 2023, p. 47.

⁸ For example, the May 2023 CDR lists 1,220 MW of available summer peak capacity from non-synchronous ties in the “Resource” category and the January 2024 MORA lists 720 MW of capacity from non-synchronous ties in the “Total Available Resources” category.

generation to be redispatched when there is insufficient transmission for both the import and the dispatchable generator to be fully deliverable. PGRR 105 would actually resolve the concern that Staff has identified.

Staff Issue 3: Lack of Control

Staff is concerned that ensuring full deliverability of imports could result in dependency upon generation resources outside the ERCOT region. It is difficult to imagine the ERCOT system, with its peak demand well above 82 GW and climbing year over year, becoming dependent upon generators on the other side of the 1 GW of DC ties currently connected to the Texas grid. Even once the SST project comes online, total import capacity would still be less than four percent of ERCOT's current peak resource needs.

Additionally, Staff is concerned that other jurisdictions may curtail exports to the ERCOT region during extreme weather events and that this presents a reliability risk to the ERCOT region. However, if non-ERCOT systems did curtail flows to ERCOT, then ERCOT would be no worse off than it would have been in the absence of imports in the first place. In addition, SST is not a back-to-back DC tie configuration like the existing ERCOT ties. It will connect ERCOT to a system hundreds of miles away providing reliability benefits associated with geographic diversity in a different time zone and different weather region, with a massive fleet of dispatchable resources. Large, distant interregional transfers proved invaluable during Winter Storm Uri not only for ERCOT but also for SPP and MISO. Indeed, more than 13,000 MW of power flow from PJM and the Southeast into MISO North and South were largely responsible for SPP's ability to maintain critical flows to ERCOT during the event.⁹ Staff seems to advise the Commission to foreclose the opportunity for interregional assistance because it is not a surety. Yet, the only surety Staff's approach would provide is the foreclosure of the opportunity for interregional assistance.

Staff Recommendations

Staff recommends the Commission avoid revisiting SST project-specific policy decisions within the context of PGRR 105. Southern Spirit would go further and urge the Commission to

⁹ Federal Energy Regulatory Commission and North American Electric Reliability Corporation, *The February 2021 Cold Weather Outages in Texas and the South Central United States*, Nov. 2021, p. 147 (FERC-NERC 2021). The report notes that MISO operators specifically declined to declare a transmission emergency on Feb. 15, 2021 in order to maintain flows to SPP so that SPP could maintain flows to ERCOT. FERC-NERC notes, "This was another example of the RCs coordinating during the Event, working to prioritize the most critical emergencies among the three Reliability Coordinators."

clearly state that its prior Order approving resolution of the Directives and closing Project No. 46304 would not in any way be undone or revisited in the context of an amendment to the ERCOT market rules.

Staff suggests the Commission consider a rulemaking project to evaluate the PGRR 105 policy. Such an effort would duplicate the 29 months already spent by ERCOT stakeholders on this issue.¹⁰ Indeed, the first time the Commission directed ERCOT to establish deliverability criteria, it chose not to utilize the rulemaking process.¹¹ As Staff notes, the Commission already has a busy rulemaking calendar.¹² In the alternative, Staff suggests the Commission incorporate DC tie import considerations into the various market design efforts already underway. However, DC tie import considerations will already be considered in those projects. For example, the Performance Credit Mechanism as designed by E3 specifically contemplates DC tie imports being eligible to earn credits. None of the market design efforts, however, have anything to do with transmission planning criteria, so the PGRR 105 policy issue would remain unaddressed.

Guidance to ERCOT

Staff notes that the Commission could choose to defer consideration of the policy impacts of PGRR 105 until it completes its journey through the ERCOT process and is presented to the Commission for final approval. SST agrees that the Commission could let the stakeholder process complete its work. Indeed, the Commission should direct ERCOT to release its hold on PGRR 105 and let the stakeholders complete their deliberations and reach a final recommendation on the proposed change to ERCOT's planning process. SST agrees with ERCOT that, in the absence of any specific Commission direction to adopt or reject PGRR 105, informal direction from the

¹⁰ Beginning with the June 2021 meeting of ERCOT's Planning Working Group to evaluate DC tie performance during Uri, through the development and passage of PGRR 095 and the subsequent, related development of PGRR 105.

¹¹ PGRR 105 builds upon a concept first articulated by the Commission when it directed ERCOT to ensure the deliverability of dispatchable resources as one of its earliest post-Uri reforms to the transmission planning process. When ERCOT implemented the Commission's direction through PGRR 095, *Establish Minimum Deliverability Criteria*, it was suggested at that time to include DC tie imports to the list of resources that should be deliverable. ERCOT declined to add imported power at that time, not because it was opposed to the idea, but because PGRR 095 was narrowly drafted to implement the Commission's instructions to ensure deliverability of dispatchable resources. In fact, ERCOT stated in its Dec. 7, 2021 PGRR 095 Comments that it "does support continued discussion of the potential reliability benefits associated with DC Ties and appropriate policies to realize those benefits. ERCOT believes that it is appropriate for those discussions to take place separately from consideration of PGRR 095."

¹² See Staff Memorandum at 5 (suggesting a rulemaking "within the constraints of the current rulemaking calendar.")

Commission would not constitute a “directive” to ERCOT to take official action.¹³ If the PGRR 105 stakeholder process moves forward, then the Commission could consider the impacts of PGRR 105 on ERCOT’s planning process when it reviews the ERCOT Board-approved version of the PGRR and decide whether to grant final approval, reject, or remand with specific instructions in accordance with established practice.

Regulatory Certainty for the SST Project

Southern Spirit appreciates the time and attention devoted by the Commission last year to complete its review of the SST project and to provide the regulatory certainty necessary for the SST project to move forward.¹⁴ However, as the PGRR 105 debate makes evident, regulatory certainty remains elusive. Whether it is in the form of ERCOT suggesting that old rules cannot be amended unless ordered by the Commission, Commission Staff arguing that a change to ERCOT market rules can “undo” a prior Commission order, or certain market participants arguing in the stakeholder process that the Commission’s order closing the SST oversight proceeding remains open to interpretation, it is apparent that SST needs further clarity from the Commission.

Whatever guidance the Commission gives ERCOT regarding PGRR 105 and whatever decision the Commission ultimately makes on PGRR 105 once approved through the ERCOT stakeholder process, SST respectfully requests the Commission enter an order confirming that all costs to be assigned to SST have been assigned and any future costs associated with issues addressed in the completed Directives will be allocated in accordance with the Commission’s and ERCOT’s policies, procedures, and rules for allocating costs to all market participants.

Dated November 29, 2023.

¹³ See ERCOT’s Request for Commission Input in this Project at 5, fn. 11.

¹⁴ https://texasadmin.com/tx/puct/open_meeting/20220929.

Respectfully submitted,

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ON BEHALF OF SOUTHERN SPIRIT
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