



Control Number: 41606



Item Number: 1002

Addendum StartPage: 0

SOAH DOCKET NO. 473-13-5207
PUC DOCKET NO. 41606

2013 SEP 27 PM 2:54
PUBLIC UTILITY
FILED CLERK

JOINT APPLICATION OF ELECTRIC §
TRANSMISSION TEXAS, LLC AND §
SHARYLAND UTILITIES, L.P. TO §
AMEND THEIR CERTIFICATES OF §
CONVENIENCE AND NECESSITY §
FOR THE PROPOSED NORTH §
EDINBURG TO LOMA ALTA §
DOUBLE-CIRCUIT 345-KV §
TRANSMISSION LINE IN HIDALGO §
AND CAMERON COUNTIES, TEXAS §

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

JOINT APPLICANTS' STATEMENT IN RESPONSE TO
ROUTE ADEQUACY CHALLENGE

I. INTRODUCTION

Joint Applicants have filed an adequate number of reasonably differentiated routes to allow the Administrative Law Judges (ALJs) and the Commission a reasoned choice of routes considering all the facts and circumstances presented. Intervenor's arguments in statements of position and testimony either do not adequately weigh those facts and circumstances or offer flawed reasons to disregard them.¹

After over six months of study and the most rigorous level of review, the Electricity Reliability Council of Texas, Inc. (ERCOT)—the entity charged with ensuring the reliability of the Texas transmission grid—directed Joint Applicants to construct a “new single circuit 345 kV line from North Edinburg to Loma Alta, on double-circuit capable structures, routed in proximity to the existing South McAllen Substation.”² ERCOT concluded that the project is “very important to the continued reliability of the bulk electric system in the ERCOT Region.”³ Because the project runs through a highly developed and especially constrained area, Joint

¹ Joint Applicants explained in their Objection to and Motion to Strike the Route Adequacy Testimony of T. Brian Almon, James R. Dauphinais, and Rudolph K. “Rudi” Reinecke and Request for Expedited Action (Sep. 20, 2013) why much of the Intervenor's testimony should be struck as being outside the scope of a route adequacy challenge. But the ALJs' denied this request in Order No. 5. While Joint Applicants disagree with that ruling and reserve the right to take the same position before the Commission, this Statement assumes that the scope of this route adequacy hearing is as contemplated by Order No. 5.

² Application, Attachment 6 at 1 (Jul. 3, 2013).

³ *Id.*

Applicants retained the services of a routing expert with over 36 years of experience and, after fifteen months of study, proposed 32 geographically distinct routes implementing ERCOT's directive.

Intervenors challenge the adequacy of these routes despite the fact that (1) the intervenors have not themselves conducted a thorough evaluation of the constraints in the study area and (2) these routes follow ERCOT's plainly stated instructions to route the project in proximity to the South McAllen Substation. Intervenors attack ERCOT's directive by selectively highlighting a handful of sentences from a 26-page ERCOT Independent Review that included review and input from a broad range of ERCOT stakeholders (e.g., utilities, consumers, retail electric providers, generators) and PUCT Staff through an extensive, mandatory Regional Planning Group (RPG) process. The Independent Review resulted in a unanimous endorsement by the ERCOT Board of Directors that directed Joint Applicants to construct the project proposed in this proceeding. Intervenors' witnesses acknowledge that their conclusions are predicated on the Commission rejecting ERCOT's directive, not the adequacy of the application as proposed.⁴ However, a route adequacy hearing focuses on the adequacy of the *application* (i.e., whether the application will ultimately provide an adequate range of choices to the ALJ and the Commission for the transmission project proposed to address the need for the project). Questions of the actual need for the transmission solution and the adequacy of the routes (i.e., whether the various criteria in PURA § 37.056 and P.U.C. SUBST. R. 25.101 are satisfied) are best addressed in the hearing on the merits.⁵

II. STANDARD

The standard for a route adequacy hearing has been set out in great detail in *Wood County*.⁶ Route adequacy is addressed in two contexts: a preliminary hearing (or route adequacy hearing) and the hearing on the merits.⁷ The hearing on the merits addresses whether the various

⁴ See, e.g., Route Adequacy Testimony of T. Brian Almon at 14 (Sep. 17, 2013); Route Adequacy Testimony of Rudolph K. "Rudi" Reinecke at 14 (Sep. 17, 2013); Route Adequacy Testimony of James R. Dauphinais at 36 (Sep. 17, 2013).

⁵ *Application of Wood County Electric Cooperative, Inc. to Amend its Certificate of Convenience and Necessity for a 138 kV Transmission Line Feed to Sand Springs Substation in Wood County Texas*, Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

⁶ *Id.* at 5.

⁷ *Id.*

routing criteria of PURA § 37.056 and P.U.C. SUBST. R. 25.101 are satisfied.⁸ But the route adequacy hearing is intended only to screen the application to determine whether there are an adequate number of alternative routes to conduct a hearing on the merits.⁹ Thus, the focus is on whether the routes taken as a whole present a reasonably differentiated range of options, not whether a particular route is adequate or whether better routes could have been devised.¹⁰

The preliminary route adequacy hearing is a “more cursory review” of the application to ensure it contains “adequate justification for the routes selected” and determine whether additional routes should be added.¹¹ Primarily, it asks “whether an adequate number of reasonably differentiated routes has been proposed in the application to allow a reasoned choice of route considering all the facts and circumstances presented,”¹² focusing on the “quality of choice between the proposed routes,” not engaging in “a counting exercise.”¹³ But it also seeks to resolve any questions of why other routes were not considered.¹⁴

Procedurally, the hearing follows a three-step framework.¹⁵ **First**, the applicant must make a *prima facie* showing that there are an adequate number of routes in the application.¹⁶ **Second**, the other parties must then present evidence showing that the routes presented are inadequate or to present additional information for consideration.¹⁷ **Third**, the applicant must then offer a reasoned justification for why certain other potential routing options were not included in the application.¹⁸

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Application of Brazos Electric Power Cooperative, Inc., to Amend Its Certificate of Convenience and Necessity (CCN) for a Proposed 138-kV Double Circuit Transmission Line and Substation in Collin County, Texas*, Docket No. 34276, Order No. 22 at 9 (Feb. 19, 2008).

¹² Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006)

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Docket No. 38140, SOAH Order No. 9 at 3 (Jul. 20, 2010).

¹⁶ *Id.*

¹⁷ *Id.* at 4.

¹⁸ *Id.*

III. APPLYING THE THREE-STEP FRAMEWORK

Joint Applicants have presented a diverse set of routes to implement the transmission project that ERCOT has endorsed, especially considering the significant routing constraints in the area. No evidence or pre-filed testimony disputes that. Instead, Intervenor variously challenge the adequacy of this application because (1) of so-called “chokepoints” or (2) they believe ERCOT’s directive should not have been implemented. The former claims are not supported by evidence and the latter claims should be rejected on compelling legal and policy grounds. Further, Joint Applicants have reasonable justifications for their routing decisions, showing that the application contains “an adequate number of reasonably differentiated routes to allow a reasoned choice of route considering all the facts and circumstances presented.”¹⁹

A. Joint Applicants have satisfied their prima facie showing that there are an adequate number of routes.

Joint Applicants’ burden in a route adequacy hearing “is a much lower standard than the applicant’s general burden to prove by a preponderance of the evidence that its application complies with all statutes and regulations.”²⁰ Taken alone, the application and the pre-filed direct testimony of Mark E. Caskey²¹ and Rob R. Reid²² establish that the application on its face contains an adequate number of routes.

Joint Applicants retained Mr. Reid, a qualified third-party routing consultant (who has over 36 years of experience and has routed more than 55 transmission line projects in Texas in the past ten years).²³ Mr. Reid and POWER Engineers used a well-established and comprehensive methodology to carefully develop 32 different routes (composed of more than 350 individual links) after discussions with local landowners, governmental agencies, and other parties.²⁴ Furthermore, no party denies that the Lower Rio Grande Valley (LRGV) is an especially constrained area, questions Mr. Reid’s methodology, or suggests additional viable links to implement the ERCOT endorsement. All of these factors show that Joint Applicants

¹⁹ Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

²⁰ Docket No. 34276, Order No. 22 at 9 (Feb. 19, 2008).

²¹ Direct Testimony of Mark E. Caskey (Jul. 3, 2013).

²² Direct Testimony of Rob R. Reid (Jul. 3, 2013).

²³ Route Adequacy Testimony of Rob R. Reid at 4-5 (Sep. 27, 2013).

²⁴ *Id.* at 4-5.

have met their *prima facie* burden,²⁵ and Joint Applicants respectfully request that the application and accompanying testimony be admitted at the route adequacy hearing for the “sole and limited purpose” of resolving the route adequacy challenges.²⁶

B. None of the issues raised justify a determination that the application is inadequate.

After this *prima facie* showing, “the burden then shifts to the other parties to present evidence showing the inadequacy of the application or the routes presented.”²⁷ The parties’ challenges fall into two categories: (1) all routes pass through various “chokepoints” and (2) all routes are routed via the existing South McAllen Substation. None of the intervenors have carried this burden.

1. The existence of “chokepoints,” without more, does not render the application inadequate.

Several parties raise concerns about so-called “chokepoints,” *i.e.*, two links situated such that all routes must pass through one or the other (Links 134/137a and 84b; Links 193c and 196b). But “chokepoints” alone do not render the application inadequate, and no evidence suggests these particular chokepoints are not viable, which is ground for rejecting this aspect of the challenge.²⁸ Further, the existence of “chokepoint” **links** is not determinative, provided there are still an adequate number of **routes**²⁹—the issue is the “quality of choices between the proposed routes,” not “simply a counting exercise.”³⁰ In Mr. Reid’s estimation, there are an

²⁵ See Docket No. 38140, Order No. 9 at 5-6 (Jul. 20, 2010) (determining that Oncor had met its initial burden based on similar factors).

²⁶ See, e.g., *Application of Oncor Electric Delivery Company LLC to Amend a Certificate of Convenience and Necessity for the Willow Creek-Hicks 345-kV CREZ Transmission Line in Denton, Parker, Tarrant and Wise Counties*, Docket No. 38324, Order No. 2 at 2 (Jul. 14, 2010); *Docket No. 34276, Order No. 14 at 1* (Nov. 28, 2007); *Application of Brazos Electric Power Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a 138-kV Single Circuit Transmission Line and Substation in Johnson and Hood Counties, Texas*, Docket No. 33800, Order No. 13 at 2 (Jul. 23, 2007).

²⁷ Docket No. 38140, Order No. 9 at 4 (Jul. 20, 2010). *Accord* Docket No. 34276, Order No. 14 at 1 (Nov. 28, 2007).

²⁸ See Docket No. 38140, Order No. 9 at 6 (Jul. 20, 2010).

²⁹ Docket No. 38140, SOAH Order No. 9 at 7 (Jul. 20, 2010)

³⁰ Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

adequate number of geographically diverse routes presented,³¹ even in light of these “chokepoints.”³²

2. Following ERCOT’s directives does not make the application inadequate.

The remaining challenges address Joint Applicants’ decision to correctly follow ERCOT’s directive to route the project “in proximity to” the existing South McAllen Substation. While intervenors argue that the decision to route the transmission project near the South McAllen Substation was “unilaterally determined”³³ or “unreasonable,”³⁴ it was ERCOT, not Joint Applicants, that directed that the project should be routed “in proximity to” the South McAllen Substation,³⁵ as several parties acknowledge.³⁶ This is the project that ERCOT directed Joint Applicants to construct, and for which there is a critical need to the reliability of the ERCOT network. While this need determination affects the route selected, *Wood County* makes clear that a frontal assault on the need for a project is best taken up at the hearing on the merits.³⁷ ERCOT endorsed this project during the RPG process, that endorsement must be given “great weight,”³⁸ and the application is not inadequate simply because Joint Applicants propose to implement ERCOT’s recommendation. Indeed, the policy implications of holding that utilities can and should disregard ERCOT’s recommendations are troubling and could have profound and costly consequences on future transmission line CCN cases, including those where the need is critical as in this case.

³¹ Direct Testimony of Rob R. Reid at 12 (Jul. 3, 2013).

³² Route Adequacy Testimony of Rob R. Reid at 12 (Sep. 27, 2013).

³³ Joint Statement of Position on Route Adequacy of Elizabeth Grace (Betty) Perez et al. at 4 (Sep. 17, 2013); City of McAllen’s Statement of Position Challenging Route Adequacy at 3 (Sep. 17, 2013) (“Joint Applicants have unilaterally created this constraint.”).

³⁴ Joint Landowners’ Statement Challenging Adequacy of Routes and Request for Preliminary Hearing on Route Adequacy at 2 (Sep. 17, 2013).

³⁵ Application, Attachment 6 at 1 (Jul. 3, 2013).

³⁶ Statement on Position Challenging Route Adequacy on Behalf of EIA/Dougherty Properties at 3 (Sep. 17, 2013) (“All of the proposed routes use links that travel in proximity to the existing South McAllen substation, as requested by ERCOT.”); Joint Landowners’ Statement Challenging Adequacy of Routes and Request for Preliminary Hearing on Route Adequacy at 3 (Sep. 17, 2013) (“The underlying cause of this issue was the decision by ERCOT to recommend that the proposed 345 kV transmission line be routed ‘in proximity’ to the existing South McAllen 138 kV substation”); Barreda Gardens Partnership LP et al.’s Statement of Position on Route Adequacy at 3 (Sep. 17, 2013).

³⁷ Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

³⁸ P.U.C. SUBST. R. 25.101(b)(3)(A)(i).

Further, the argument that ERCOT's recommendation should be disregarded suffers from a major flaw: it misunderstands the route adequacy standard. Intervenor's arguments claim that the "range of choices" is inadequate *if the Commission rejects ERCOT's recommendation*.³⁹ But the issue in a route adequacy hearing is not whether the Commission has been presented with an adequate "range of choices" to cover every possible permutation.⁴⁰ Rather, it is the "range of choices . . . **for the proposed transmission solutions to the perceived need for additional service.**"⁴¹ Thus, the range of choices is properly limited by the "need for additional service"⁴² (here, ERCOT's determination of the short-term need to connect the North Edinburg and Loma Alta substations and the long-term need to route "in proximity to" the South McAllen Substation⁴³) and the "proposed transmission solutions" to meet that need (here, ERCOT's Option 5).⁴⁴ Thus, an application should not be deemed inadequate merely because it is limited to the transmission solution proposed by ERCOT to meet the need identified by ERCOT.⁴⁵ The Commission has already cautioned against expanding the route adequacy hearing in light of the "infinite number of potential routes"⁴⁶ that **do** implement ERCOT's recommendation, and the rationale against expanding the route adequacy hearing to routes that **do not** implement ERCOT's recommendation carries even greater force.

³⁹ Joint Landowners' Statement Challenging Adequacy of Routes and Request for Preliminary Hearing on Route Adequacy at 2-3 (Sep. 17, 2013); Barreda Gardens Partnership LP et al.'s Statement of Position on Route Adequacy at 2-3 (Sep. 17, 2013); Joint Statement of Position on Route Adequacy of Elizabeth Grace (Betty) Perez et al. at 5-6 (Sep. 17, 2013).

⁴⁰ Docket No. 38140, SOAH Order No. 9 at 5 (Jul. 20, 2010) (citing *Application of Oncor Electric Delivery Company to Amend a Certificate of Convenience and Necessity (CCN) for a Proposed Transmission line within Bell and Williamson Counties, Texas*, Docket No. 34440, Order No. 12 (Dec., 6, 2007); adopted in relevant part, Order on Appeal of Order No. 12 (Jan. 16, 2008)) ("As determined by the ALJ in Docket No. 34440, '[a]t some point, a line must be drawn between having significant and real choices for the Commission to consider on the one hand, and requiring a never ending potential for alternative routes to be considered on the other.'").

⁴¹ Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006).

⁴² *Id.*

⁴³ Application, Attachment 6 at 1-2 (Jul. 3, 2013).

⁴⁴ *Id.* at 1.

⁴⁵ Docket No. 32070, Order on Appeal of Order No. 8 at 5 (Nov. 1, 2006) (noting that questions of need are best addressed during the hearing on the merits).

⁴⁶ Docket No. 38140, SOAH Order No. 9 at 5 (Jul. 20, 2010).

C. Joint Applicants' routing decisions are supported by a reasoned justification considering the facts and circumstances presented.

Circumstances can justify a limited number of routes, provided the application gives “a reasonable explanation of those circumstances and a reasoned justification for the limited number of routes.”⁴⁷ As set forth below, the “facts and circumstances” here are simple and stated in the application: (1) the study area is especially constrained and (2) ERCOT selected Option 5, not the different project proposed by intervenors.

1. The “chokepoints” were dictated by insurmountable constraints.

This project is routed through an especially constrained area, and so some “chokepoints” are to be expected⁴⁸ and unavoidable.⁴⁹ First, ERCOT gave Joint Applicants three destination points in a densely populated area.⁵⁰ Second, the McAllen-Edinburg-Mission metropolitan area, with over 750,000 people,⁵¹ lies directly between two of those points. Third, the study area contains an unusually large number of constraints,⁵² including the International Boundary and Water Commission flood-control right-of-way, protected state and federal parks and refuges, private conservation lands, several historic landmarks and cemeteries, and the border with Mexico.⁵³ All of these issues were set forth in the application, but none were acknowledged or addressed by intervenors.⁵⁴

Although Mr. Reid’s general practice is to provide several alternatives to any given link, the constraints presented in this project did not allow for additional alternatives to the so-called “chokepoints.” Intervenors have not presented viable alternatives to these links,⁵⁵ they only

⁴⁷ Docket No. 32070, Order on Appeal of Order No. 8 at 6 (Nov. 1, 2006); Docket No. 38140, SOAH Order No. 9 at 4 (Jul. 20, 2010).

⁴⁸ Route Adequacy Testimony of Rob R. Reid at 12 (Sep. 27, 2013).

⁴⁹ *Id.* at 12.

⁵⁰ Application, Attachment 6 at 1-2.

⁵¹ Route Adequacy Testimony of Rob R. Reid at 12 (Sep. 27, 2013).

⁵² *Id.* at 13.

⁵³ Direct Testimony of Mark E Caskey at 25 (Jul. 3, 2013).

⁵⁴ Mr. Almon even acknowledges that he had “not evaluated the constraints identified by Joint Applicants and their consultant, Power Engineers.” Route Adequacy Testimony of T. Brian Almon at 14 ln. 15-16 (Sep. 17, 2013).

⁵⁵ See *Johnson & Hood Counties*, Docket No. 33800, Order No. 13 at 3 (Jul. 23, 2007) (noting that once an applicant made its *prima facie* case, the burden shifted to intervenors “to propose new alternatives,” which could then be addressed by applicant).

assert the application should include (unspecified) alternatives to these “chokepoints.” Given this, and the fact that Mr. Reid employed standard routing methodology, there is nothing to rebut, or explain, or justify. Each of these “chokepoints” results from numerous specific constraints that were shown on the routing maps provided by Joint Applicants and fully explained in Mr. Reid’s route adequacy testimony.⁵⁶ Mr. Reid is a qualified transmission line routing expert, he employed standard routing methodology, there are simple explanations for each of these “chokepoints,” and intervenors have offered no pre-filed testimony claiming otherwise. The application is adequate vis-à-vis these “chokepoints.”

2. *ERCOT’s directive to route the line “in proximity to” the South McAllen Substation is a “reasoned justification” for Joint Applicants’ routing decisions.*

The project is routed “in proximity to” the South McAllen Substation because that is the project ERCOT endorsed based on its assessment of the need for a 345 kV source in the western Lower Rio Grande Valley.⁵⁷ ERCOT’s endorsement is intended to support, to the extent applicable, a finding by the Commission that a project is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056 and P.U.C. SUBST. R. 25.101,⁵⁸ and must be given “great weight” in a CCN proceeding.⁵⁹ In fact, Joint Applicants believe that no project endorsed through the RPG process has *ever* been rejected by the Commission.⁶⁰ Intervenors may disagree with ERCOT, but Joint Applicants are only required to provide a “reasoned justification” to prevail in a route adequacy challenge, and a directive from the entity responsible for long-term transmission planning should be adequate to meet Joint Applicant’s burden in a route adequacy hearing.

3. *Joint Applicants faithfully implemented ERCOT’s recommendation.*

Several parties also impugn the routing circle around the South McAllen Substation as unnecessary, though the bases for these claims are unclear. Mr. Caskey set forth a “reasoned justification” for the routing decision in his direct testimony: it was based on (1) available space for a substation, (2) routing constraints near potential substations, (3) existing transmission lines,

⁵⁶ Route Adequacy Testimony of Rob R Reid at 13-19 (Sept. 27, 2013).

⁵⁷ Application, Attachment 6 (Jul. 3, 2013).

⁵⁸ ERCOT Protocols § 3.11.1(2).

⁵⁹ P.U.C. SUBST. R. 25.101(b)(3)(A)(i).

⁶⁰ Route Adequacy Testimony of Mark E. Caskey at 23-24 (Sep. 27, 2013); Billo Deposition Tr. at 102-103 (attached to the Testimony of James R. Dauphinais at Exh. 11-1).

and (4) the status of those lines, as well as routing constraints and how a future connection could be made.⁶¹

Intervenors ignore the substance of this justification and instead focus on the claim that ERCOT never reviewed this circle.⁶² But this was because, as Mr. Billo testified, ERCOT staff views its role as providing the technical analysis to support its determination that there was a need for a future South McAllen interconnection, leaving the interpretation of “proximity” to the utilities and Commission.⁶³ All that mattered to ERCOT was that a connection could be made to the 138 kV lines in the area.⁶⁴

Nor do the claims that the Routing Circle is too small have merit.⁶⁵ The Routing Circle reflects the balance between those locations that are close enough to the substation to allow for a low-impedance interconnection along existing 138 kV lines that accurately replicates ERCOT’s modeling, while still allowing for flexibility and options for the construction of a new 345/138 kV substation in light of the numerous practical constraints in the area.⁶⁶ Further technical discussion should be reserved for the route adequacy hearing.

IV. **WOOD COUNTY’S TREATMENT OF SUBSTATIONS IS INAPPLICABLE.**

A corollary issue raised by intervenors is that the application is inadequate because it does not specify the location of the future 345/138 kV substation near South McAllen.⁶⁷ The

⁶¹ Direct Testimony of Mark E. Caskey at 23-24 (Jul. 3, 2013).

⁶² Statement on Position Challenging Route Adequacy on Behalf of EIA/Dougherty Properties at 4 (Sep. 17, 2013). *See also* City of McAllen’s Statement of Position Challenging Route Adequacy at 3 (Sep. 17, 2013); Joint Landowners’ Statement Challenging Adequacy of Routes and Request for Preliminary Hearing on Route Adequacy at 4 (Sep. 17, 2013); Barreda Gardens Partnership et al.’s Statement of Position on Route Adequacy at 4 (Sep. 17, 2013); Joint Statement of Position on Route Adequacy of Elizabeth Grace (Betty) Perez et al. at 4 (Sep. 17, 2013).

⁶³ Billo Deposition Tr. at 72 (“our view of that situation was we wanted to provide technical analysis but leave it to the T[ransmission] S[ervice] P[roviders] and the Public Utility Commission to determine what was appropriate”); *id.* at 81-82 (stating that ERCOT’s recommendation that the project be routed in proximity to South McAllen was done with the expectation that its recommendation would be interpreted by the Commission and TSPs); *id.* at 81 (ERCOT “saw a technical need to have a 345- to 138-kV connection at South McAllen,” but left the determination of what constitutes proximity to the Commission and TSPs). *See also* Route Adequacy Testimony of Mark E. Caskey at 22-23 (Sep. 27, 2013).

⁶⁴ Billo Deposition Tr. at 44, 100.

⁶⁵ Route Adequacy Testimony of Mark E. Caskey at 26 (Sep. 27, 2013).

⁶⁶ *Id.* at 12.

⁶⁷ *E.g.*, Statement of Position Challenging Route Adequacy on Behalf of EIA/Dougherty Properties at 2 (Sep. 17, 2013).

location of a future substation is outside the scope of this particular project, and P.U.C. SUBST. R. 25.101(c)(2) specifically provides that Commission certification of an electric switching station or substation is not required.⁶⁸

The intervenors point to the *Wood County* decision to argue that Joint Applicants must specify the location of any planned future substation in order to have an adequate application.⁶⁹ They are misreading *Wood County*. *Wood County* addresses whether the applicant's decision to fix the location of a **proposed** substation presented route adequacy issues.⁷⁰ The utility argued that it did not, because the Commission lacked the authority to determine the location of substations.⁷¹ But the Commission rightly noted that "the siting of the yet-to-be constructed substation is inextricably intertwined with the routing of the proposed transmission line," and therefore properly considered in a route adequacy challenge.⁷²

Unlike *Wood County*, here routing decisions were not dictated by a "yet-to-be constructed substation" that can be relocated with ease, but rather an **existing** substation.⁷³ Because the South McAllen Substation is a fixed, existing point, these situations are different, notwithstanding Mr. Almon's attempt to analogize the two.⁷⁴ The routes selected are necessarily influenced by the end-points of the project, and in order to construct a project that is consistent with the analysis performed by ERCOT staff and endorsed by the Board of Directors, the routes must pass within a short distance of the South McAllen Substation to allow an efficient electrical connection sufficient to replicate the modeling performed by ERCOT.⁷⁵

Moreover, Joint Applicants have done precisely what *Wood County* requires. Deciding and specifying the location of the future substation⁷⁶ would be contrary to *Wood County* because

⁶⁸ Docket No. 32070, Order on Appeal of Order No. 8 at 2 (Nov. 1, 2006).

⁶⁹ See, e.g., Joint Landowners at 6; EIA at 5.

⁷⁰ Docket No. 32070, Order on Appeal of Order No. 8 at 1-2 (Nov. 1, 2006).

⁷¹ *Id.* at 2.

⁷² *Id.* at 3-4.

⁷³ See Direct Testimony of Mark E. Caskey at 12 (Jul. 3, 2013).

⁷⁴ Cf. Route Adequacy Testimony of T. Brian Almon at 13 (Sep. 17, 2013) (arguing that *Wood* should be extended from a proposed substation to the existing South McAllen Substation).

⁷⁵ Route Adequacy Testimony of Mark E. Caskey at 12, 24-26 (Sep. 27, 2013).

⁷⁶ Statement on Position Challenging Route Adequacy on Behalf of EIA/Dougherty Properties at 5 (Sep. 17, 2013).

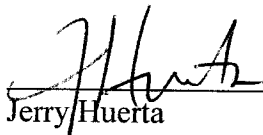
the location of the routes would be dictated by this “yet-to-be constructed substation.”⁷⁷ Instead, Joint Applicants have reserved this decision for the Commission and provided reasonable choices for the location of such a station that are still sufficiently close to existing substations to efficiently achieve the benefits that ERCOT modeled for such interconnection. In short, the problem in *Wood County* was that the location of the substation dictated the Commission’s choice of routes; in this case, the Commission’s choice of routes will dictate the location of the substation.

V. CONCLUSION

Joint Applicants respectfully request that the ALJs find that the Joint Applicants have met their burden of showing the application contains an adequate number of reasonably differentiated routes to allow the ALJs and the Commission a reasoned choice of routes considering all the facts and circumstances presented. Joint Applicants should be allowed to continue this CCN process so that the reliability needs that ERCOT identified by ERCOT can be addressed in a timely manner, not put on hold.

⁷⁷ Docket No. 32070, Order on Appeal of Order No. 8 at 3 (Nov. 1, 2006).

Respectfully submitted,



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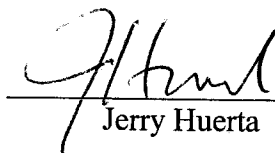
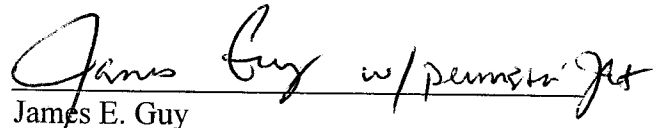
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September 27, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on all parties of record this 27th day of September, 2013 via the Commission's filing interchange, e-mail, or first-class mail in accordance with Order No. 4.


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