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JOINT APPLICATION OF ELECTRIC § BEFORE THE STATE OFFICE
TRANSMISSION TEXAS, LLC AND §
SHARYLAND UTILITIES TO AMEND §
THEIR CERTIFICATES OF §
CONVENIENCE AND NECESSITY FOR § OF
THE NORTH EDINBURG TO LOMA §
ALTA DOUBLE-CIRCUIT 345-KV §
TRANSMISSION LINE IN HIDALGO §
AND CAMERON COUNTIES, TEXAS § ADMINISTRATIVE HEARINGS

**EIA/DOUGHERTY PROPERTIES' POST HEARING BRIEF
ON ROUTE ADEQUACY ISSUES**

EIA Properties, Ltd., Stag Holdings, Ltd., Frost Bank and Ben F. Vaughan, III, as Co-Trustees of the Genevieve T. Dougherty Trust #2, Frost Bank as Trustee of the Melissa Dougherty Trust, and Wells Fargo Bank, N.A. as Trustee of the Kevin Dougherty Trust (collectively "EIA/Dougherty Parties") file this Post Hearing Brief on Route Adequacy issues. Electric Transmission Texas, LLC ("ETT") and Sharyland Utilities, LP ("Sharyland") (collectively "Joint Applicants") have failed to provide a reasoned justification for directing all routes through the "routing circle" around the South McAllen Substation, and did not file an adequate range of route choices to conduct a proper evaluation under the Public Utility Regulatory Act and Public Utility Commission of Texas ("Commission") precedent. ETT and Sharyland must propose additional links that exit east of the North Edinburg Substation, that are forward progressing toward the Loma Alta Substation and relieve the choke points at Links 135, 136a and 137b, to provide the Administrative Law Judge and the Commission to conduct a proper evaluation. EIA/Dougherty Properties request an abatement to allow the Joint Applicants to supplement their application with appropriate additional links and routes.

I. SCOPE OF ANALYSIS

Although there is no Commission rule that directly addresses the scope of route adequacy hearings, the Commission's order in the *Wood County* proceeding, provides some helpful guidance for the analysis of route adequacy, and particularly for the issues present in this case. Tex. Pub. Util. Comm'n, *Application of Wood County Electric Cooperative, Inc. for a Certificate of Convenience and Necessity for a Proposed Transmission Line in Wood County, Texas*, Docket

No. 32070 (2006) (Order on Appeal of Order No. 8). The following are guiding principles for the analysis of the route adequacy challenges raised by the Joint Landowners and others:

- The Commission provided for route adequacy hearings in transmission line CCN proceedings “to ensure that the routes proposed in an application are the result of a reasoned process that considered engineering principles, statutory and regulatory factors, and Commission policy.” *Wood County* at 6.
- “[T]he preliminary hearing must provide a meaningful review of whether the application will ultimately provide an adequate range of choices to the ALJ and to the Commission for the proposed transmission solutions to the perceived need for additional service.” *Id.* at 5.
- It is properly within the scope of a route adequacy challenge to determine whether an application provides “sufficient explanation and justification that is supported by investigation and analysis” for the route options proposed in the application. *Id.* at 6.
- The Commission “must consider whether the location of [a] proposed substation ‘mandates routes that would not be necessary or that would have a significantly [adverse] impact on the community.’” *Id.* at 4.

II. ROUTE ADEQUACY

The proposed project includes routes that exit the North Edinburg Substation and travel to the west and east, then south towards a “routing circle”, designated by ETT and Sharyland, near the South McAllen Substation. Despite Joint Applicants objections, analysis of their “routing circle,” is not a “need analysis” that is prohibited in a preliminary route adequacy hearing. The challenges brought in this proceeding require review of the need for a self-imposed and arbitrary routing criteria applied by the Joint Applicants, not the need for the transmission line itself. There are several key facts that demonstrate the Joint Applicants do not have a reasoned justification for directing the routes through the “routing circle,” and have not proposed a sufficient number of reasonably differentiated routes.

- ERCOT’s Independent Review found that the electric reliability issues in the Brownsville area are addressed by the 345-kV transmission line connecting the North Edinburg Substation to the Loma Alta Substation, without routing the line in proximity to the South McAllen Substation. Deposition of Jeff Billo at p. 32.¹
- Joint Applicants’ basis for routing the project through the “routing circle” is the ERCOT recommendation for the project which states that the line is to be routed “in proximity to”

¹ Exhibit JRD-RA-11 to the Route Adequacy Testimony of James R. Dauphinais on Behalf of Joint Landowners, Joint Landowners Route Adequacy Hearing Exhibit 12.

the South McAllen Substation. Transcript of Preliminary Hearing on Route Adequacy ("Transcript") at p. 103.

- ERCOT did not define the term "in proximity to" for purposes of this project. Transcript Deposition of Jeff Billo at p. 67.
- ERCOT was not consulted about and did not approve the Joint Applicants' "routing circle" for the project. Deposition of Jeff Billo at p. 69.
- ERCOT did not analyze the revised portion of the project that includes a new substation within the "routing circle, that may, at an undetermined time, connect to the South McAllen Substation at the 138-kV level. Transcript at p. 136.
- Joint Applicants have not purchased land for a potential new substation within the "routing circle" and have not provided any evidence of the locations for a new substation sites. Transcript at p. 165.
- Joint Applicants do not know how many connections will be needed between the new substation and the South McAllen Substation, or if the connection will happen between 2016 and 2020 or later. Transcript at pp.137 – 138.
- Joint Applicants' witness Mark Caskey admitted that he had not performed any studies or analysis to justify the assertion that the 138-kV transmission lines that may eventually connect a new substation to the South McAllen Substation, must only be two to three miles long because of impedance issues. Transcript p. 147.
- Mr. Caskey also admitted that many things besides distance affect impedance, such as the construction of the line and the type of conductor, and that modifications can be made to limit impedance. Transcript at p. 147.
- Joint Applicants' "routing circle" was drawn to encompass routes that had previously been established, not as an area that the routes should be routed through. Transcript at pp. 139, 164 – 165.
- If this project is not routed within the Joint Applicants' "routing circle," a future connection could be made from a new substation located in a different area, to the South McAllen Substation when ERCOT determines there is a need for the connection. Transcript at pp. 150, 152-153.
- The longest routes proposed by Joint Applicants, Routes 11 and 12 at 121.4 miles and 124.5 miles of right-of-way, travel to the west of the North Edinburg substation. The shortest routes, Routes 20 and 22 at 98.8 and 96.3 miles of right-of-way, travel to the east of the North Edinburg Substation. Joint Applicants CCN Application, Attachments 2 and 10c.
- All currently proposed eastern routes must travel through Links 135 or 136a, and 137b. Joint Applicants CCN Application, Attachment 10c.

The facts demonstrate that Joint Applicants have not presented a reasoned justification for routing the transmission line through the "routing circle," but instead the evidence shows that the "routing circle" is an arbitrary self-imposed constraint without basis. Joint Applicants have not presented adequate evidence to suggest that a route that would accommodate a future substation site 5 – 10 miles away would not provide the same benefits as routing within the "routing circle." Joint Applicants have not shown any evidence that getting within the "routing circle" is justified given the greater impacts on landowners because of the greater length of western routes (and eastern routes that must double back to the "routing circle") and the limited proposed links to the east. Without the "routing circle" requirement, Joint Applicants do not have a sufficient number of reasonably differentiated routes to the east of the North Edinburg Substation and therefore should propose additional links in that area, particularly to provide alternatives to Links 135, 136a and 137b.

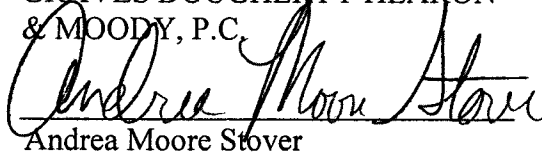
Joint Applicants had developed some preliminary links to the east of North Edinburg Substation that were removed prior to filing the application. *See* Joint Landowner Hearing Exhibit 2. Using those links should save time for Joint Applicants in proposing new links. However, Joint Applicants should also provide additional links that include alternatives to Links 135, 136a and 137b, which create a "choke point" in all eastern routes. Currently, all eastern routes must use Links 135 or 136a, and all routes must use 137b. This choke point does not provide for reasonably differentiated routes to the east and unreasonably impacts landowners in this area. Studying a few link options that provide more choices for this portion of the project should not unduly delay the ultimate approval of the application, but will lessen the adverse impacts on landowners and allow for a proper evaluation of the project.

III. CONCLUSION

EIA/Dougherty Properties respectfully request that the Administrative Law Judge abate the proceeding until such time that Joint Applicants can provide additional routing options to the east of the North Edinburg Substation that provide reasonably differentiated routing options that relieve the choke point around Links 135, 136a and 137b. EIA/Dougherty Properties request any further relief to which they may be entitled.

Respectfully submitted,

GRAVES DOUGHERTY HEARON
& MOODY, P.C.



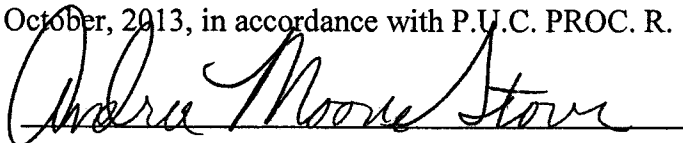
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served in accordance with Order Nos. 3-5 in this case on this 11th day of October, 2013, in accordance with P.U.C. PROC. R. § 22.74.



Andrea Moore Stover